

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 404

Introduced by Senator Anderson

February 16, 2011

An act to amend ~~Sections 26875, 26880, and 31700 of, and to add Section 26817 to, Section 31650 of the Penal Code, relating to firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 404, as amended, Anderson. Firearms: handgun safety certificates: ~~exemptions. fees charged to veterans.~~

Existing law generally prohibits a person from purchasing or receiving any handgun without a valid handgun safety certificate. Existing law also generally prohibits a person from selling, delivering, loaning, or transferring any handgun to any person who does not have that certificate. Existing law authorizes a certified instructor to charge a fee of \$25 for the certificate, of which \$15 is paid to the Department of Justice to cover the costs to the department in carrying out and enforcing the provisions governing handgun safety. Existing law requires that all moneys received by the department be deposited into the Firearms Safety and Enforcement Special Fund, a continuously appropriated fund.

This bill would provide that a certified instructor shall charge a fee of not more than \$10 to any applicant who has been honorably discharged from the United States Armed Forces, the National Guard, or the Air National Guard. The bill would prohibit the department from charging a fee to a certified instructor for each handgun safety certificate issued by the instructor to an applicant who has been honorably discharged from the United States Armed Forces, the National Guard, or the Air National Guard.

~~Existing law requires a firearms dealer to post conspicuously within the licensed premises a detailed list of all charges required by governmental agencies for processing firearms transactions, as required by specified provisions of law. Existing law prohibits the dealer from misstating the amounts of those fees.~~

~~This bill would delete from that list a reference to charges pertaining to handgun safety certificates, as specified.~~

~~Existing law, subject to exceptions, generally requires a handgun purchaser to possess a handgun safety certificate in connection with the purchase of a handgun. Existing law imposes a variety of requirements on firearms dealers in connection with the transfer and delivery of a firearm.~~

~~This bill would require a firearms dealer, at the time of delivery of a handgun to a handgun purchaser who is exempted from possessing a handgun safety certificate, to provide to the purchaser a copy of the instruction manual on handgun safety, published by the Department of Justice.~~

~~Existing law exempts certain persons from the requirements of obtaining a handgun safety certificate, including an active, or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, and the active reserve components of the United States, where individuals in those organizations are properly identified.~~

~~This bill would recast those provisions to exempt an active or honorably discharged member of the United States Armed Forces, the National Guard, and the Air National Guard, the active reserve components of the United States, where individuals in those organizations are properly identified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 31650 of the Penal Code is amended to*
- 2 *read:*
- 3 31650. (a) ~~The~~*(1) Except as otherwise provided in paragraph*
- 4 *(2), the certified instructor may charge a fee of twenty-five dollars*
- 5 *(\$25), fifteen dollars (\$15) of which is to be paid to the department*
- 6 *pursuant to subdivision (c).*
- 7 *(2) The certified instructor shall charge a fee of not more than*
- 8 *ten dollars (\$10) to any applicant who has been honorably*

1 *discharged from the United States Armed Forces, the National*
2 *Guard, or the Air National Guard. The amount charged under this*
3 *paragraph shall not be paid to the department pursuant to*
4 *subdivision (c).*

5 (b) (1) An applicant to renew a handgun safety certificate shall
6 be required to pass the objective test. ~~The~~ *Except as otherwise*
7 *provided in paragraph (2), the certified instructor may charge a*
8 *fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is*
9 *to be forwarded to the department pursuant to subdivision (c).*

10 (2) *The certified instructor shall charge a fee of not more than*
11 *ten dollars (\$10) to any applicant to renew a handgun safety*
12 *certificate who has been honorably discharged from the United*
13 *States Armed Forces, the National Guard, or the Air National*
14 *Guard. The amount charged under this paragraph shall not be*
15 *paid to the department pursuant to subdivision (c).*

16 (c) ~~The~~ *Except as otherwise provided in this subdivision, the*
17 *department may charge the certified instructor up to fifteen dollars*
18 *(\$15) for each handgun safety certificate issued by that instructor*
19 *to cover the department's cost in carrying out and enforcing this*
20 *article, and enforcing the provisions listed in subdivision (e), as*
21 *determined annually by the department. The department may not*
22 *charge a fee to a certified instructor for a handgun safety*
23 *certificate issued by the instructor to an applicant who has been*
24 *honorably discharged from the United States Armed Forces, the*
25 *National Guard, or the Air National Guard.*

26 (d) All money received by the department pursuant to this article
27 shall be deposited into the Firearms Safety and Enforcement
28 Special Fund created pursuant to Section 28300.

29 (e) The department shall conduct enforcement activities,
30 including, but not limited to, law enforcement activities to ensure
31 compliance with the following provisions:

32 (1) Section 830.95.

33 (2) Title 2 (commencing with Section 12001) of Part 4.

34 (3) This part, except Sections 16965, 17235, and 21510.

35 ~~SECTION 1. Section 26817 is added to the Penal Code, to~~
36 ~~read:~~

37 ~~26817. The licensee shall, at the time a firearm is delivered to~~
38 ~~the purchaser, provide to every handgun purchaser, who is~~
39 ~~exempted from possessing a handgun safety certificate pursuant~~
40 ~~to Section 31700, a copy of the instruction manual on handgun~~

1 safety, published by the Department of Justice pursuant to
2 subdivision (a) of Section 31630.

3 SEC. 2. Section 26875 of the Penal Code is amended to read:

4 26875. A licensee shall post conspicuously within the licensed
5 premises a detailed list of each of the following:

6 (a) All charges required by governmental agencies for processing
7 firearm transfers required by Chapter 5 (commencing with Section
8 28050) and Article 3 (commencing with Section 28200) of Chapter
9 6.

10 (b) All fees that the licensee charges pursuant to Chapter 5
11 (commencing with Section 28050).

12 SEC. 3. Section 26880 of the Penal Code is amended to read:

13 26880. A licensee shall not misstate the amount of fees charged
14 by a governmental agency pursuant to Chapter 5 (commencing
15 with Section 28050) and Article 3 (commencing with Section
16 28200) of Chapter 6.

17 SEC. 4. Section 31700 of the Penal Code is amended to read:

18 31700. (a) The following persons, properly identified, are
19 exempted from the handgun safety certificate requirement in
20 subdivision (a) of Section 31615:

21 (1) Any active or honorably retired peace officer, as defined in
22 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

23 (2) Any active or honorably retired federal officer or law
24 enforcement agent.

25 (3) Any reserve peace officer, as defined in Section 832.6.

26 (4) Any person who has successfully completed the course of
27 training specified in Section 832.

28 (5) A firearms dealer licensed pursuant to Article 6
29 (commencing with Section 26700) and Article 2 (commencing
30 with Section 26800) of Chapter 2 of Division 6 who is acting in
31 the course and scope of that person's activities as a person licensed
32 pursuant to Sections 26700 to 26915, inclusive, Article 6
33 (commencing with Section 26700) and Article 2 (commencing
34 with Section 26800) of Chapter 2 of Division 6.

35 (6) A federally licensed collector who is acquiring or being
36 loaned a handgun that is a curio or relic, as defined in Section
37 478.11 of Title 27 of the Code of Federal Regulations, who has a
38 current certificate of eligibility issued by the department pursuant
39 to Section 26710.

1 ~~(7) A person to whom a handgun is being returned, where the~~
2 ~~person receiving the firearm is the owner of the firearm.~~

3 ~~(8) A family member of a peace officer or deputy sheriff from~~
4 ~~a local agency who receives a firearm pursuant to Section 50081~~
5 ~~of the Government Code.~~

6 ~~(9) Any individual who has a valid concealed weapons permit~~
7 ~~issued pursuant to Chapter 4 (commencing with Section 26150)~~
8 ~~of Division 5.~~

9 ~~(10) An active, or honorably discharged member of the United~~
10 ~~States Armed Forces, the National Guard, the Air National Guard,~~
11 ~~the active reserve components of the United States, where~~
12 ~~individuals in those organizations are properly identified. For~~
13 ~~purposes of this section, proper identification includes the Armed~~
14 ~~Forces Identification Card, or other written documentation~~
15 ~~certifying that the individual is an active or honorably discharged~~
16 ~~member.~~

17 ~~(11) Any person who is authorized to carry loaded firearms~~
18 ~~pursuant to Section 26025 or 26030.~~

19 ~~(12) Persons who are the holders of a special weapons permit~~
20 ~~issued by the department pursuant to Section 32650 or 33300,~~
21 ~~pursuant to Article 3 (commencing with Section 18900) of Chapter~~
22 ~~1 of Division 5 of Title 2, or pursuant to Article 4 (commencing~~
23 ~~with Section 32700) of Chapter 6.~~

24 ~~(b) The following persons who take title or possession of a~~
25 ~~handgun by operation of law in a representative capacity, until or~~
26 ~~unless they transfer title ownership of the handgun to themselves~~
27 ~~in a personal capacity, are exempted from the handgun safety~~
28 ~~certificate requirement in subdivision (a) of Section 31615:~~

29 ~~(1) The executor or administrator of an estate.~~

30 ~~(2) A secured creditor or an agent or employee thereof when~~
31 ~~the firearms are possessed as collateral for, or as a result of, or an~~
32 ~~agent or employee thereof when the firearms are possessed as~~
33 ~~collateral for, or as a result of, a default under a security agreement~~
34 ~~under the Commercial Code.~~

35 ~~(3) A levying officer, as defined in Section 481.140, 511.060,~~
36 ~~or 680.260 of the Code of Civil Procedure.~~

37 ~~(4) A receiver performing the functions of a receiver.~~

38 ~~(5) A trustee in bankruptcy performing the duties of a trustee.~~

- 1 ~~(6) An assignee for the benefit of creditors performing the~~
- 2 ~~functions of an assignee.~~

O