

AMENDED IN SENATE APRIL 13, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 798

Introduced by Senator De León

February 18, 2011

~~An act to add Sections 19920 and 20153 to the Penal Code, relating to firearms. An act to amend Section 16700 of the Penal Code, relating to firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 798, as amended, De León. Firearms: BB devices: imitation firearms.

Existing law defines "BB device" to mean any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, or any spot marker gun. Existing law defines "imitation firearm" to mean any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm *but provides that a BB device is not an imitation firearm in regard to a provision imposing a civil fine on the sale, manufacture, transportation, receipt, or distribution of imitation firearms for commercial purposes.* ~~Existing law regulates the sale of BB devices and imitation firearms and makes it a misdemeanor for any person to change, alter, remove, or obliterate any coloration or marking that is required by any applicable state or federal law or regulation for any imitation firearm. Existing law further defines a handgun to be a pistol, revolver, or other firearm capable of being concealed upon the person.~~

~~This bill would require, except as specified, every BB device and imitation firearm that appears to be a handgun that has a barrel less than 16 inches in length to have the entire exterior surface of the device white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominate color in combination with other colors in any pattern, or be constructed of transparent or translucent materials that permit unmistakable observation of the device’s complete contents.~~

This bill would make the provision imposing a civil fine on the sale, manufacture, transportation, receipt, or distribution of imitation firearms for commercial purposes applicable to BB devices.

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

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

1 SECTION 1. Section 16700 of the Penal Code is amended to
2 read:

3 16700. (a) As used in this part, “imitation firearm” means any
4 BB device, toy gun, replica of a firearm, or other device that is so
5 substantially similar in coloration and overall appearance to an
6 existing firearm as to lead a reasonable person to perceive that the
7 device is a firearm.

8 (b) As used in Section 20165, “imitation firearm” does not
9 include any of the following:

10 (1) A nonfiring collector’s replica that is historically significant,
11 and is offered for sale in conjunction with a wall plaque or
12 presentation case.

13 ~~(2) A BB device.~~

14 ~~(3)~~

15 (2) A device where the entire exterior surface of the device is
16 white, bright red, bright orange, bright yellow, bright green, bright
17 blue, bright pink, or bright purple, either singly or as the
18 predominant color in combination with other colors in any pattern,
19 as provided by federal regulations governing imitation firearms,
20 or where the entire device is constructed of transparent or
21 translucent materials which permits unmistakable observation of
22 the device’s complete contents, as provided by federal regulations
23 governing imitation firearms.

1 SECTION 1. ~~Section 19920 is added to the Penal Code, to~~
2 ~~read:~~

3 ~~19920. Except as authorized in this part, every BB device that~~
4 ~~appears to be a handgun that has a barrel less than 16 inches in~~
5 ~~length shall have the entire exterior surface of the device be white,~~
6 ~~bright red, bright orange, bright yellow, bright green, bright blue,~~
7 ~~bright pink, or bright purple, either singly or as the predominate~~
8 ~~color in combination with other colors in any pattern, or be~~
9 ~~constructed of transparent or translucent materials that permit~~
10 ~~unmistakable observation of the device's complete contents.~~

11 SEC. 2. ~~Section 20153 is added to the Penal Code, to read:~~

12 ~~20153. Except as authorized in this part, every imitation firearm~~
13 ~~that appears to be a handgun that has a barrel less than 16 inches~~
14 ~~in length shall have the entire exterior surface of the device be~~
15 ~~white, bright red, bright orange, bright yellow, bright green, bright~~
16 ~~blue, bright pink, or bright purple, either singly or as the~~
17 ~~predominate color in combination with other colors in any pattern,~~
18 ~~or be constructed of transparent or translucent materials that permit~~
19 ~~unmistakable observation of the device's complete contents.~~