

AMENDED IN ASSEMBLY MARCH 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 169**

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**Introduced by Assembly Member Dickinson**

January 24, 2013

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An act to amend ~~Section~~ *Sections 32000, 32100, and 32110* of, ~~and to repeal Section 32110 of,~~ the Penal Code, relating to unsafe handguns.

LEGISLATIVE COUNSEL'S DIGEST

AB 169, as amended, Dickinson. Unsafe handguns.

~~(1) Existing law requires parties to a firearms transaction to complete the sale, loan, or transfer of the firearm through a licensed firearms dealer where neither party to the transaction holds a dealer license. Existing law provides for several exceptions from this requirement, including sales made to authorized law enforcement representatives, delivery of a firearm to a gunsmith for repair, transactions involving a firearm that is a curio or relic, or the loaning of a firearm for use solely as a prop in a motion picture, among others.~~

~~Existing~~

*(1) Existing law provides for the testing of handguns and requires the Department of Justice to maintain a roster listing all handguns that are determined not to be unsafe handguns. Existing law makes it a crime, punishable by imprisonment in a county jail not exceeding one year, to manufacture, import into the state for sale, keep for sale, offer or expose for sale, give, or lend an unsafe handgun. Existing law provides that the provisions defining and governing unsafe handguns do not apply to a firearm that is a curio or relic or to certain transactions, including the sale, loan, or transfer of any firearm in a transaction that requires the use of a licensed dealer, or where the sale,*

loan, or transfer is exempt from the provisions of law requiring the transfer to be conducted through a licensed firearms dealer, ~~among others~~ *or to the delivery of a firearm to a licensed dealer for purposes of a consignment sale or as collateral for a pawnbroker loan. Existing law also makes the provisions defining and governing unsafe handguns inapplicable to the sale, loan, or transfer of any semiautomatic pistol that is to be used solely as a prop during the course of a motion picture, television, or video production, as specified.*

*This bill would delete these exemptions and would make the provisions defining and governing unsafe handguns inapplicable to the loan or rental of any pistol, revolver, or other firearm capable of being concealed on the person that is used solely as a prop during the course of a motion picture, television, video production, or event, provided the loan or rental is conducted through a licensed firearms dealer, and provided the weapon is returned to the owner before or upon completion of the production or event. By expanding the definition of a crime, this bill would impose a state-mandated local program.*

*(2) Existing law makes the provisions defining and governing unsafe handguns inapplicable to a single-shot pistol, as specified.*

*This bill would instead make the provisions defining and governing unsafe handguns inapplicable to a single-shot pistol with a break top or bolt action. The bill would make this exemption inapplicable to a semiautomatic pistol that has been temporarily or permanently altered so that it will not fire in a semiautomatic mode. By expanding the definition of a crime, this bill would impose a state-mandated local program.*

~~This bill would repeal these exemptions, and would instead make the prohibition on manufacturing, importing, selling, giving, or lending an unsafe handgun inapplicable to the sale, loan, or transfer of any firearm that is exempt from the requirement that a firearms transaction to be completed through a licensed firearms dealer. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~(2)~~

*(3) Existing law exempts the purchase of a handgun from the above prohibition on manufacturing, importing, selling, giving, or lending an unsafe handgun if the handgun is sold to, or purchased by, the Department of Justice, a police department, a sheriff's official, a marshal's office, the Department of Corrections and Rehabilitation, the California Highway Patrol, any district attorney's office, or the military*

or naval forces of this state or of the United States for use in the discharge of their official duties.

This bill would prohibit a person exempted under the above provision from selling or otherwise transferring the ownership of the handgun to a person who is not exempted under the same provision unless the transaction is exempt from the requirement to complete the transaction through a licensed dealer. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3)

(4) The bill would also make nonsubstantive, technical corrections.

(4)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 32000 of the Penal Code is amended to  
2 read:

3 32000. (a) Commencing January 1, 2001, any person in this  
4 state who manufactures or causes to be manufactured, imports into  
5 the state for sale, keeps for sale, offers or exposes for sale, gives,  
6 or lends any unsafe handgun shall be punished by imprisonment  
7 in a county jail not exceeding one year.

8 (b) This section shall not apply to any of the following:

9 (1) The manufacture in this state, or importation into this state,  
10 of a prototype handgun when the manufacture or importation is  
11 for the sole purpose of allowing an independent laboratory certified  
12 by the Department of Justice pursuant to Section 32010 to conduct  
13 an independent test to determine whether that handgun is prohibited  
14 by Sections 31900 to 32110, inclusive, and, if not, allowing the  
15 department to add the firearm to the roster of handguns that may  
16 be sold in this state pursuant to Section 32015.

17 (2) The importation or lending of a handgun by employees or  
18 authorized agents of entities determining whether the weapon is  
19 prohibited by this section.

1 (3) Firearms listed as curios or relics, as defined in Section  
 2 478.11 of Title 27 of the Code of Federal Regulations.

3 (4) The sale or purchase of a handgun, if the handgun is sold  
 4 to, or purchased by, the Department of Justice, a police department,  
 5 a sheriff's official, a marshal's office, the Department of  
 6 Corrections and Rehabilitation, the California Highway Patrol,  
 7 any district attorney's office, or the military or naval forces of this  
 8 state or of the United States for use in the discharge of their official  
 9 duties. This section does not prohibit the sale to, or purchase by,  
 10 sworn members of these agencies of a handgun. ~~Except as provided~~  
 11 ~~in paragraph (5), a~~ A person who, under this paragraph, acquires  
 12 a handgun that is not on the roster required by Section ~~23015~~  
 13 ~~32015~~, shall not sell or otherwise transfer ownership of the handgun  
 14 to a person who is not exempted under this paragraph.

15 ~~(5) The sale, loan, or transfer of any firearm that is exempt from~~  
 16 ~~the provisions of Section 27545 pursuant to any applicable~~  
 17 ~~exemption contained in Article 2 (commencing with Section 27600)~~  
 18 ~~or Article 6 (commencing with Section 27850) of Chapter 4 of~~  
 19 ~~Division 6, if the sale, loan, or transfer complies with the~~  
 20 ~~requirements of that applicable exemption to Section 27545.~~

21 (c) Violations of subdivision (a) are cumulative with respect to  
 22 each handgun and shall not be construed as restricting the  
 23 application of any other law. However, an act or omission  
 24 punishable in different ways by this section and other provisions  
 25 of law shall not be punished under more than one provision, but  
 26 the penalty to be imposed shall be determined as set forth in Section  
 27 654.

28 ~~SEC. 2. Section 32110 of the Penal Code is repealed.~~

29 *SEC. 2. Section 32100 of the Penal Code is amended to read:*

30 32100. (a) Article 4 (commencing with Section 31900) and  
 31 Article 5 (commencing with Section 32000) shall not apply to a  
 32 single-action revolver that has at least a five-cartridge capacity  
 33 with a barrel length of not less than three inches, and meets any  
 34 of the following specifications:

35 (1) Was originally manufactured prior to 1900 and is a curio or  
 36 relic, as defined in Section 478.11 of Title 27 of the Code of  
 37 Federal Regulations.

38 (2) Has an overall length measured parallel to the barrel of at  
 39 least seven and one-half inches when the handle, frame or receiver,  
 40 and barrel are assembled.

1 (3) Has an overall length measured parallel to the barrel of at  
2 least seven and one-half inches when the handle, frame or receiver,  
3 and barrel are assembled and that is currently approved for  
4 importation into the United States pursuant to the provisions of  
5 paragraph (3) of subsection (d) of Section 925 of Title 18 of the  
6 United States Code.

7 (b) Article 4 (commencing with Section 31900) and Article 5  
8 (commencing with Section 32000) shall not apply to a single-shot  
9 pistol with a *break top or bolt action and a barrel length of not*  
10 *less than six inches and that has an overall length of at least 10½*  
11 *inches when the handle, frame or receiver, and barrel are*  
12 *assembled. However, Article 4 (commencing with Section 31900)*  
13 *and Article 5 (commencing with Section 32000) shall apply to a*  
14 *semiautomatic pistol that has been temporarily or permanently*  
15 *altered so that it will not fire in a semiautomatic mode.*

16 SEC. 3. Section 32110 of the Penal Code is amended to read:

17 32110. Article 4 (commencing with Section 31900) and Article  
18 5 (commencing with Section 32000) shall not apply to any of the  
19 following:

20 ~~(a) The sale, loan, or transfer of any firearm pursuant to Chapter~~  
21 ~~5 (commencing with Section 28050) of Division 6 in order to~~  
22 ~~comply with Section 27545.~~

23 ~~(b) The sale, loan, or transfer of any firearm that is exempt from~~  
24 ~~the provisions of Section 27545 pursuant to any applicable~~  
25 ~~exemption contained in Article 2 (commencing with Section 27600)~~  
26 ~~or Article 6 (commencing with Section 27850) of Chapter 4 of~~  
27 ~~Division 6, if the sale, loan, or transfer complies with the~~  
28 ~~requirements of that applicable exemption to Section 27545.~~

29 ~~(c) The sale, loan, or transfer of any firearm as described in~~  
30 ~~paragraph (3) of subdivision (b) of Section 32000.~~

31 ~~(d)~~

32 (a) The delivery of a pistol, revolver, or other firearm capable  
33 of being concealed upon the person to a person licensed pursuant  
34 to Sections 26700 to 26915, inclusive, for the purposes of the  
35 service or repair of that firearm.

36 ~~(e)~~

37 (b) The return of a pistol, revolver, or other firearm capable of  
38 being concealed upon the person by a person licensed pursuant to  
39 Sections 26700 to 26915, inclusive, to its owner where that firearm

1 was initially delivered in the circumstances set forth in subdivision  
 2 (a), (d), (f), or (i) subdivisions (a), (c), and (d).

3 (f) The delivery of a pistol, revolver, or other firearm capable  
 4 of being concealed upon the person to a person licensed pursuant  
 5 to Sections 26700 to 26915, inclusive, for the purpose of a  
 6 consignment sale or as collateral for a pawnbroker loan.

7 (g) The sale, loan, or transfer of any pistol, revolver, or other  
 8 firearm capable of being concealed upon the person listed as a  
 9 curio or relic, as defined in Section 478.11 of Title 27 of the Code  
 10 of Federal Regulations.

11 (h)  
 12 (c) The sale, loan, or transfer loan or rental of any  
 13 semiautomatic pistol, revolver, or other firearm capable of being  
 14 concealed upon the person that is to be used solely as a prop during  
 15 the course of a motion picture, television, or video production by  
 16 an authorized participant therein in the course of making that  
 17 production or event or by an authorized employee or agent of the  
 18 entity producing that production or event, provided the loan or  
 19 rental is conducted through a person licensed pursuant to Sections  
 20 26700 to 26915, inclusive, and provided the weapon is returned  
 21 to the owner before or upon completion of the production or event.

22 (i)  
 23 (d) The delivery of a pistol, revolver, or other firearm capable  
 24 of being concealed upon the person to a person licensed pursuant  
 25 to Sections 26700 to 26915, inclusive, where the firearm is being  
 26 loaned by the licensee to a consultant-evaluator.

27 (j)  
 28 (e) The delivery of a pistol, revolver, or other firearm capable  
 29 of being concealed upon the person by a person licensed pursuant  
 30 to Sections 26700 to 26915, inclusive, where the firearm is being  
 31 loaned by the licensee to a consultant-evaluator.

32 (k)  
 33 (f) The return of a pistol, revolver, or other firearm capable of  
 34 being concealed upon the person to a person licensed pursuant to  
 35 Sections 26700 to 26915, inclusive, where it was initially delivered  
 36 pursuant to subdivision (j) (e).

37 ~~SEC. 3.~~

38 SEC. 4. No reimbursement is required by this act pursuant to  
 39 Section 6 of Article XIII B of the California Constitution because  
 40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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