

AMENDED IN SENATE JUNE 3, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

AMENDED IN ASSEMBLY MARCH 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 169

Introduced by Assembly Member Dickinson

January 24, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 169, as amended, Dickinson. Unsafe handguns.

(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, where the sale, loan, or transfer is exempt from the provisions of law requiring the transfer to be conducted through a licensed firearms dealer, 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. The bill would also make the exemptions inapplicable to the sale of a pistol, revolver, or other firearm capable of being concealed on the person that is conducted through a licensed dealer if the sale is made by an entity loaning or renting firearms for use as props to another entity for the purpose of loaning or renting the firearm as a prop. *the sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person, conducted through a licensed dealer, that was listed on the roster of not unsafe handguns but was subsequently removed because of the failure to pay the fee necessary to keep the firearm listed on the roster.* 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.

(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.

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

(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.

20 (3) Firearms listed as curios or relics, as defined in Section
21 478.11 of Title 27 of the Code of Federal Regulations.

22 (4) The sale or purchase of a handgun, if the handgun is sold
23 to, or purchased by, the Department of Justice, a police department,
24 a sheriff's official, a marshal's office, the Department of
25 Corrections and Rehabilitation, the California Highway Patrol,

1 any district attorney's office, or the military or naval forces of this
2 state or of the United States for use in the discharge of their official
3 duties. This section does not prohibit the sale to, or purchase by,
4 sworn members of these agencies of a handgun. A person who,
5 under this paragraph, acquires a handgun that is not on the roster
6 required by Section 32015, shall not sell or otherwise transfer
7 ownership of the handgun to a person who is not exempted under
8 this paragraph.

9 (c) Violations of subdivision (a) are cumulative with respect to
10 each handgun and shall not be construed as restricting the
11 application of any other law. However, an act or omission
12 punishable in different ways by this section and other provisions
13 of law shall not be punished under more than one provision, but
14 the penalty to be imposed shall be determined as set forth in Section
15 654.

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

17 32100. (a) Article 4 (commencing with Section 31900) and
18 Article 5 (commencing with Section 32000) shall not apply to a
19 single-action revolver that has at least a five-cartridge capacity
20 with a barrel length of not less than three inches, and meets any
21 of the following specifications:

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

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

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

34 (b) Article 4 (commencing with Section 31900) and Article 5
35 (commencing with Section 32000) shall not apply to a single-shot
36 pistol with a break top or bolt action and a barrel length of not less
37 than six inches and that has an overall length of at least 10½ inches
38 when the handle, frame or receiver, and barrel are assembled.
39 However, Article 4 (commencing with Section 31900) and Article
40 5 (commencing with Section 32000) shall apply to a semiautomatic

1 pistol that has been temporarily or permanently altered so that it
2 will not fire in a semiautomatic mode.

3 ~~SEC. 3. Section 32110 of the Penal Code is amended to read:~~
4 ~~32110. Article 4 (commencing with Section 31900) and Article~~
5 ~~5 (commencing with Section 32000) shall not apply to any of the~~
6 ~~following:~~

7 ~~(a) The delivery of a pistol, revolver, or other firearm capable~~
8 ~~of being concealed upon the person to a person licensed pursuant~~
9 ~~to Sections 26700 to 26915, inclusive, for the purposes of the~~
10 ~~service or repair of that firearm.~~

11 ~~(b) The return of a pistol, revolver, or other firearm capable of~~
12 ~~being concealed upon the person by a person licensed pursuant to~~
13 ~~Sections 26700 to 26915, inclusive, to its owner where that firearm~~
14 ~~was initially delivered in the circumstances set forth in subdivisions~~
15 ~~(a), (c), and (e).~~

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

26 ~~(d) The sale of any pistol, revolver, or other firearm capable of~~
27 ~~being concealed upon the person if both of the following apply:~~

28 ~~(1) The sale is made by an entity that loans or rents the firearm~~
29 ~~for the purposes specified in subdivision (c) to another entity that~~
30 ~~is purchasing the firearm for the purpose of loaning or renting the~~
31 ~~firearm for the purposes specified in subdivision (c).~~

32 ~~(2) The sale is conducted through a person licensed pursuant to~~
33 ~~Sections 26700 to 26915, inclusive.~~

34 ~~(e) The delivery of a pistol, revolver, or other firearm capable~~
35 ~~of being concealed upon the person to a person licensed pursuant~~
36 ~~to Sections 26700 to 26915, inclusive, where the firearm is being~~
37 ~~loaned by the licensee to a consultant-evaluator.~~

38 ~~(f) The delivery of a pistol, revolver, or other firearm capable~~
39 ~~of being concealed upon the person by a person licensed pursuant~~

1 to Sections 26700 to 26915, inclusive, where the firearm is being
 2 loaned by the licensee to a consultant-evaluator.

3 ~~(g) The return of a pistol, revolver, or other firearm capable of~~
 4 ~~being concealed upon the person to a person licensed pursuant to~~
 5 ~~Sections 26700 to 26915, inclusive, where it was initially delivered~~
 6 ~~pursuant to subdivision (f).~~

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

8 32110. Article 4 (commencing with Section 31900) and Article
 9 5 (commencing with Section 32000) shall not apply to any of the
 10 following:

11 ~~(a) The sale, loan, or transfer of any firearm pursuant to Chapter~~
 12 ~~5 (commencing with Section 28050) of Division 6 in order to~~
 13 ~~comply with Section 27545.~~

14 ~~(b)~~

15 (a) 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 ~~(e)~~

22 (b) The sale, loan, or transfer of any firearm as described in
 23 paragraph (3) of subdivision (b) of Section 32000.

24 ~~(d)~~

25 (c) The delivery of a pistol, revolver, or other firearm capable
 26 of being concealed upon the person to a person licensed pursuant
 27 to Sections 26700 to 26915, inclusive, for the purposes of the
 28 service or repair of that firearm.

29 ~~(e)~~

30 (d) The return of a pistol, revolver, or other firearm capable of
 31 being concealed upon the person by a person licensed pursuant to
 32 Sections 26700 to 26915, inclusive, to its owner where that firearm
 33 was initially delivered in the circumstances set forth in subdivision
 34 (a), (d), (f), or (i) (c) or (g).

35 ~~(f) The delivery of a pistol, revolver, or other firearm capable~~
 36 ~~of being concealed upon the person to a person licensed pursuant~~
 37 ~~to Sections 26700 to 26915, inclusive, for the purpose of a~~
 38 ~~consignment sale or as collateral for a pawnbroker loan.~~

39 ~~(g)~~

1 (e) The sale, loan, or transfer of any pistol, revolver, or other
2 firearm capable of being concealed upon the person listed as a
3 curio or relic, as defined in Section 478.11 of Title 27 of the Code
4 of Federal Regulations.

5 ~~(h)~~

6 (f) The sale, loan, or transfer of any semiautomatic pistol that
7 is to be used solely as a prop during the course of a motion picture,
8 television, or video production by an authorized participant therein
9 in the course of making that production or event or by an authorized
10 employee or agent of the entity producing that production or event.

11 ~~(i)~~

12 (g) The delivery of a pistol, revolver, or other firearm capable
13 of being concealed upon the person to a person licensed pursuant
14 to Sections 26700 to 26915, inclusive, where the firearm is being
15 loaned by the licensee to a consultant-evaluator.

16 ~~(j)~~

17 (h) The delivery of a pistol, revolver, or other firearm capable
18 of being concealed upon the person by a person licensed pursuant
19 to Sections 26700 to 26915, inclusive, where the firearm is being
20 loaned by the licensee to a consultant-evaluator.

21 ~~(k)~~

22 (i) The return of a pistol, revolver, or other firearm capable of
23 being concealed upon the person to a person licensed pursuant to
24 Sections 26700 to 26915, inclusive, where it was initially delivered
25 pursuant to subdivision ~~(j)~~ (h).

26 (j) *The sale, loan, or transfer of any pistol, revolver, or other*
27 *firearm capable of being concealed upon the person conducted*
28 *through a person licensed pursuant to Sections 26700 to 26915,*
29 *inclusive, that was listed on the roster of not unsafe handguns*
30 *specified in Section 32015 but was subsequently removed from the*
31 *roster of not unsafe handguns pursuant to paragraph (2) of*
32 *subdivision (b) of Section 32015 because of failure to pay the fee*
33 *to keep the pistol, revolver, or other firearm capable of being*
34 *concealed upon the person listed on the roster.*

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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