

ASSEMBLY BILL

No. 1609

Introduced by Assembly Member Alejo

February 6, 2014

An act to amend Sections 16520 and 27590 of, and to add Section 27585 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1609, as introduced, Alejo. Firearms.

Existing law, subject to exceptions, requires a firearm transaction to be conducted by a licensed firearms dealer. Existing law establishes requirements that dealers must adhere to in conducting firearms transactions and when delivering firearms, including, among others, a 10-day waiting period, purchaser background check, and possession of a handgun safety certificate by the purchaser.

This bill would require a California resident who seeks to own and possess within the state a firearm acquired from outside the state to have the firearm delivered to a dealer in this state for delivery pursuant to the above requirements, subject to specified exceptions. The bill would make a violation of these provisions involving a firearm that is not a handgun a misdemeanor, and a violation involving a handgun a misdemeanor or a felony. By creating a new crime, this bill would impose a state-mandated local program.

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 16520 of the Penal Code is amended to
- 2 read:
- 3 16520. (a) As used in this part, “firearm” means a device,
- 4 designed to be used as a weapon, from which is expelled through
- 5 a barrel, a projectile by the force of an explosion or other form of
- 6 combustion.
- 7 (b) As used in the following provisions, “firearm” includes the
- 8 frame or receiver of the weapon:
- 9 (1) Section 16550.
- 10 (2) Section 16730.
- 11 (3) Section 16960.
- 12 (4) Section 16990.
- 13 (5) Section 17070.
- 14 (6) Section 17310.
- 15 (7) Sections 26500 to 26588, inclusive.
- 16 (8) Sections 26600 to 27140, inclusive.
- 17 (9) Sections 27400 to 28000, inclusive.
- 18 (10) Section 28100.
- 19 (11) Sections 28400 to 28415, inclusive.
- 20 (12) Sections 29010 to 29150, inclusive.
- 21 (13) Sections 29610 to 29750, inclusive.
- 22 (14) Sections 29800 to 29905, inclusive.
- 23 (15) Sections 30150 to 30165, inclusive.
- 24 (16) Section 31615.
- 25 (17) Sections 31705 to 31830, inclusive.
- 26 (18) Sections 34355 to 34370, inclusive.
- 27 (19) Sections 8100, 8101, and 8103 of the Welfare and
- 28 Institutions Code.
- 29 (c) As used in the following provisions, “firearm” also includes
- 30 a rocket, rocket propelled projectile launcher, or similar device
- 31 containing an explosive or incendiary material, whether or not the
- 32 device is designed for emergency or distress signaling purposes:
- 33 (1) Section 16750.
- 34 (2) Subdivision (b) of Section 16840.
- 35 (3) Section 25400.

- 1 (4) Sections 25850 to 26025, inclusive.
2 (5) Subdivisions (a), (b), and (c) of Section 26030.
3 (6) Sections 26035 to 26055, inclusive.
4 (d) As used in the following provisions, “firearm” does not
5 include an unloaded antique firearm:
6 (1) Subdivisions (a) and (c) of Section 16730.
7 (2) Section 16550.
8 (3) Section 16960.
9 (4) Section 17310.
10 (5) Chapter 6 (commencing with Section 26350) of Division 5
11 of Title 4.
12 (6) Chapter 7 (commencing with Section 26400) of Division 5
13 of Title 4.
14 (7) Sections 26500 to 26588, inclusive.
15 (8) Sections 26700 to 26915, inclusive.
16 (9) Section 27510.
17 (10) Section 27530.
18 (11) Section 27540.
19 (12) Section 27545.
20 (13) Sections 27555 to ~~27570~~ 27585, inclusive.
21 (14) Sections 29010 to 29150, inclusive.
22 (15) Section 25135.
23 (e) As used in Sections 34005 and 34010, “firearm” does not
24 include a destructive device.
25 (f) As used in Sections 17280 and 24680, “firearm” has the
26 same meaning as in Section 922 of Title 18 of the United States
27 Code.
28 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
29 includes the unfinished frame or receiver of a weapon that can be
30 readily converted to the functional condition of a finished frame
31 or receiver.
32 SEC. 2. Section 27585 is added to the Penal Code, to read:
33 27585. (a) A California resident who seeks to own and possess
34 within the state a firearm acquired from outside the state shall have
35 that firearm delivered to a dealer in this state for delivery to that
36 resident pursuant to the procedures set forth in Section 27540.
37 (b) Subdivision (a) does not apply to or affect any of the
38 following:
39 (1) A licensed collector who is subject to and complies with
40 Section 27565.

1 (2) A dealer, where the dealer is receiving the firearm in the
2 course and scope of his or her activities as a dealer.

3 (3) A wholesaler where the wholesaler is receiving the firearm
4 in the course and scope of his or her activities as a wholesaler.

5 (4) A person licensed as an importer of firearms or ammunition
6 or licensed as a manufacturer of firearms or ammunition, pursuant
7 to Section 921 et seq. of Title 18 of the United States Code and
8 the regulations issued pursuant thereto if the importer or
9 manufacturer is receiving the firearm in the course and scope of
10 his or her activities as a licensed importer or manufacturer.

11 (5) A personal firearm importer who is subject to and complies
12 with Section 27560.

13 (6) A licensed collector who is subject to and complies with
14 Section 27966.

15 (7) A California resident who acquires ownership of a firearm
16 by bequest or intestate succession if the acquisition or ownership
17 of that firearm is exempt from the provisions of Section 27545
18 pursuant to, and is in compliance with, Section 27875.

19 (c) The prohibitions of this section are cumulative and do not
20 restrict the application of any other law. However, an act or
21 omission punishable in different ways by this section and different
22 provisions of this code shall not be punished under more than one
23 provision.

24 SEC. 3. Section 27590 of the Penal Code is amended to read:

25 27590. (a) Except as provided in subdivision (b), (c), or (e),
26 a violation of this article is a misdemeanor.

27 (b) If any of the following circumstances apply, a violation of
28 this article is punishable by imprisonment pursuant to subdivision
29 (h) of Section 1170 for two, three, or four years.

30 (1) If the violation is of subdivision (a) of Section 27500.

31 (2) If the defendant has a prior conviction of violating the
32 provisions, other than Section 27535, Section 27560 involving a
33 firearm that is not a handgun, or Section 27565 involving a firearm
34 that is not a handgun, of this article or former Section 12100 of
35 this code, as Section 12100 read at any time from when it was
36 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
37 when it was repealed by Section 18 of Chapter 23 of the Statutes
38 of 1994, or Section 8101 of the Welfare and Institutions Code.

39 (3) If the defendant has a prior conviction of violating any
40 offense specified in Section 29905 or of a violation of Section

1 32625 or 33410, or of former Section 12560, as that section read
2 at any time from when it was enacted by Section 4 of Chapter 931
3 of the Statutes of 1965 to when it was repealed by Section 14 of
4 Chapter 9 of the Statutes of 1990, or of any provision listed in
5 Section 16590.

6 (4) If the defendant is in a prohibited class described in Chapter
7 2 (commencing with Section 29800) or Chapter 3 (commencing
8 with Section 29900) of Division 9 of this title, or Section 8100 or
9 8103 of the Welfare and Institutions Code.

10 (5) A violation of this article by a person who actively
11 participates in a “criminal street gang” as defined in Section 186.22.

12 (6) A violation of Section 27510 involving the delivery of any
13 firearm to a person who the dealer knows, or should know, is a
14 minor.

15 (c) If any of the following circumstances apply, a violation of
16 this article shall be punished by imprisonment in a county jail not
17 exceeding one year or pursuant to subdivision (h) of Section 1170,
18 or by a fine not to exceed one thousand dollars (\$1,000), or by
19 both that fine and imprisonment.

20 (1) A violation of Section 27515, 27520, or subdivision (b) of
21 Section 27500.

22 (2) A violation of Section 27505 involving the sale, loan, or
23 transfer of a handgun to a minor.

24 (3) A violation of Section 27510 involving the delivery of a
25 handgun.

26 (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section
27 27540 involving a handgun.

28 (5) A violation of Section 27545 involving a handgun.

29 (6) A violation of Section 27550.

30 (7) *A violation of Section 27585 involving a handgun.*

31 (d) If both of the following circumstances apply, an additional
32 term of imprisonment pursuant to subdivision (h) of Section 1170
33 for one, two, or three years shall be imposed in addition and
34 consecutive to the sentence prescribed.

35 (1) A violation of Section 27510 or subdivision (b) of Section
36 27500.

37 (2) The firearm transferred in violation of Section 27510 or
38 subdivision (b) of Section 27500 is used in the subsequent
39 commission of a felony for which a conviction is obtained and the
40 prescribed sentence is imposed.

1 (e) (1) A first violation of Section 27535 is an infraction
2 punishable by a fine of fifty dollars (\$50).

3 (2) A second violation of Section 27535 is an infraction
4 punishable by a fine of one hundred dollars (\$100).

5 (3) A third or subsequent violation of Section 27535 is a
6 misdemeanor.

7 (4) For purposes of this subdivision each application to purchase
8 a handgun in violation of Section 27535 shall be deemed a separate
9 offense.

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.