

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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, commencing January 1, 2015, prohibit a resident of this state from importing into this state, bringing into this state, or transporting into this state, any firearm that he or she purchased or otherwise obtained on or after January 1, 2015, from outside of this state unless he or she first has that firearm delivered to a dealer in this state for delivery to that resident pursuant to the requirements described above regarding dealers. The bill would create several exemptions to this prohibition, as specified. 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. (a) It is the intent of the Legislature in adding
- 2 Section 27585 to the Penal Code to do all of the following:
- 3 (1) Address the circumstances in which a California resident,
- 4 on or after January 1, 2015, acquires a firearm outside of California
- 5 and then transports, imports, or brings that firearm into California,
- 6 in violation of Section 922(a)(3) of Title 18 of the United States
- 7 Code, but where the provisions of *under circumstances in which*
- 8 Section 27545 of the Penal Code ~~do~~ does not apply.
- 9 (2) Allow the current brokering processes set forth in Section
- 10 922(a)(3) of Title 18 of the United States Code, Section 27545 of
- 11 the Penal Code, and any implementing statutes to continue.
- 12 (3) Allow persons who acquire firearms outside of California
- 13 by bequest or intestate succession to utilize the functionally same
- 14 reporting requirements as apply to an applicable exemption from
- 15 Section 27545 if that receipt were to occur within California.
- 16 (b) It is not the intent of the Legislature in enacting Section
- 17 27585 to affect any of the following:
- 18 (1) The lending of firearms by or to California residents that
- 19 occur solely outside of California.
- 20 (2) The lending of firearms in this state which comply with
- 21 statutes that currently govern the lending of firearms.
- 22 (3) To impose duplicative and unnecessary reporting
- 23 requirements where reporting requirements already apply.
- 24 (4) Persons who currently import or bring firearms into
- 25 California under current regulatory statutes who comply with those
- 26 statutes.

1 (5) To narrow the exemption set forth in Section 27600 of the
2 Penal Code for law enforcement acquisition of firearms irrespective
3 of where the physical acquisition of the firearm took place.

4 SEC. 2. Section 16520 of the Penal Code is amended to read:

5 16520. (a) As used in this part, “firearm” means a device,
6 designed to be used as a weapon, from which is expelled through
7 a barrel, a projectile by the force of an explosion or other form of
8 combustion.

9 (b) As used in the following provisions, “firearm” includes the
10 frame or receiver of the weapon:

- 11 (1) Section 16550.
- 12 (2) Section 16730.
- 13 (3) Section 16960.
- 14 (4) Section 16990.
- 15 (5) Section 17070.
- 16 (6) Section 17310.
- 17 (7) Sections 26500 to 26588, inclusive.
- 18 (8) Sections 26600 to 27140, inclusive.
- 19 (9) Sections 27400 to 28000, inclusive.
- 20 (10) Section 28100.
- 21 (11) Sections 28400 to 28415, inclusive.
- 22 (12) Sections 29010 to 29150, inclusive.
- 23 (13) Sections 29610 to 29750, inclusive.
- 24 (14) Sections 29800 to 29905, inclusive.
- 25 (15) Sections 30150 to 30165, inclusive.
- 26 (16) Section 31615.
- 27 (17) Sections 31705 to 31830, inclusive.
- 28 (18) Sections 34355 to 34370, inclusive.
- 29 (19) Sections 8100, 8101, and 8103 of the Welfare and
30 Institutions Code.

31 (c) As used in the following provisions, “firearm” also includes
32 a rocket, rocket propelled projectile launcher, or similar device
33 containing an explosive or incendiary material, whether or not the
34 device is designed for emergency or distress signaling purposes:

- 35 (1) Section 16750.
- 36 (2) Subdivision (b) of Section 16840.
- 37 (3) Section 25400.
- 38 (4) Sections 25850 to 26025, inclusive.
- 39 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 40 (6) Sections 26035 to 26055, inclusive.

1 (d) As used in the following provisions, “firearm” does not
2 include an unloaded antique firearm:

- 3 (1) Subdivisions (a) and (c) of Section 16730.
- 4 (2) Section 16550.
- 5 (3) Section 16960.
- 6 (4) Section 17310.
- 7 (5) Chapter 6 (commencing with Section 26350) of Division 5
8 of Title 4.
- 9 (6) Chapter 7 (commencing with Section 26400) of Division 5
10 of Title 4.
- 11 (7) Sections 26500 to 26588, inclusive.
- 12 (8) Sections 26700 to 26915, inclusive.
- 13 (9) Section 27510.
- 14 (10) Section 27530.
- 15 (11) Section 27540.
- 16 (12) Section 27545.
- 17 (13) Sections 27555 to 27585, inclusive.
- 18 (14) Sections 29010 to 29150, inclusive.
- 19 (15) Section 25135.

20 (e) As used in Sections 34005 and 34010, “firearm” does not
21 include a destructive device.

22 (f) As used in Sections 17280 and 24680, “firearm” has the
23 same meaning as in Section 922 of Title 18 of the United States
24 Code.

25 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
26 includes the unfinished frame or receiver of a weapon that can be
27 readily converted to the functional condition of a finished frame
28 or receiver.

29 SEC. 3. Section 27585 is added to the Penal Code, to read:

30 27585. (a) Commencing January 1, 2015, a resident of this
31 state shall not import into this state, bring into this state, or
32 transport into this state, any firearm that he or she purchased or
33 otherwise obtained on or after January 1, 2015, from outside of
34 this state unless he or she first has that firearm delivered to a dealer
35 in this state for delivery to that resident pursuant to the procedures
36 set forth in Section 27540 and Article 1 (commencing with Section
37 26700) and Article 2 (commencing with Section 26800) of Chapter
38 2.

39 (b) Subdivision (a) does not apply to or affect any of the
40 following:

1 (1) A licensed collector who is subject to and complies with
2 Section 27565.

3 (2) A dealer, if the dealer is acting in the course and scope of
4 his or her activities as a dealer.

5 (3) A wholesaler, if the wholesaler is acting in the course and
6 scope of his or her activities as a wholesaler.

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

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

15 ~~(6) A licensed collector who is subject to and complies with~~
16 ~~Section 27966.~~

17 ~~(7)~~

18 (6) A California resident who acquires ownership of a firearm
19 by bequest or intestate succession who imports the firearm into
20 this state, brings the firearm into this state, or transports the firearm
21 into this state if ~~both~~ *all* of the following conditions apply:

22 (A) If the firearm ~~is~~ *were* physically received within this state,
23 the receipt of that firearm by that individual ~~is~~ *by bequest or*
24 *intestate succession would be* exempt from the provisions of
25 Section 27545.

26 ~~(B) The person who acquired the firearm reports his or her~~
27 ~~ownership of that firearm to the Department of Justice in a format~~
28 ~~prescribed by the department.~~

29 (B) *Within 30 days of that person taking possession of that*
30 *firearm and bringing it into this state, he or she shall forward by*
31 *prepaid mail, or deliver in person to the Department of Justice, a*
32 *report that includes information concerning the individual taking*
33 *possession of the firearm, the manner in which title was obtained*
34 *and from whom, and a description of the firearm in question. The*
35 *report forms that individuals complete pursuant to this subdivision*
36 *shall be provided to them by the Department of Justice.*

37 (C) *The person has obtained a firearm safety certificate, except*
38 *that in the case of a handgun, an unexpired handgun safety*
39 *certificate may be used.*

1 (D) *The receipt of that firearm by that individual by bequest or*
2 *intestate succession is infrequent, as defined in Section 16730.*

3 (E) *The person acquiring ownership of that firearm by bequest*
4 *or intestate succession is 18 years of age or older.*

5 (7) *A California resident who acquires ownership of a firearm*
6 *as an executor or administrator of an estate who imports the*
7 *firearm into this state, brings the firearm into this state, or*
8 *transports the firearm into this state if all of the following*
9 *conditions apply:*

10 (A) *If the firearm were received within this state, the receipt of*
11 *that firearm by that executor or administrator would be exempt*
12 *from the provisions of Section 27545.*

13 (B) *Within 30 days of that person taking possession of that*
14 *firearm and bringing it into this state, he or she shall forward by*
15 *prepaid mail, or deliver in person to the Department of Justice, a*
16 *report that includes information concerning the individual taking*
17 *possession of the firearm, how title was obtained and from whom,*
18 *and a description of the firearm in question. The report forms that*
19 *individuals complete pursuant to this subdivision shall be provided*
20 *to them by the Department of Justice.*

21 (C) *If the executor or administrator subsequently acquires*
22 *ownership of that firearm in an individual capacity, he or she shall*
23 *also comply with Section 27925.*

24 (D) *The executor or administrator is 18 years of age or older.*

25 (8) *A person who is on the centralized list of exempted federal*
26 *firearms licensees pursuant to Section 28450 if that person is acting*
27 *in the course and scope of his or her activities as a licensee.*

28 (9) *A firearm regulated pursuant to Chapter 1 (commencing*
29 *with Section 18710) of Division 5 of Title 2 acquired by a person*
30 *who holds a permit issued pursuant to Article 3 (commencing with*
31 *Section 18900) of Chapter 1 of Division 5 of Title 2, if that person*
32 *is acting within the course and scope of his or her activities as a*
33 *licensee and in accordance with the terms and conditions of the*
34 *permit.*

35 (10) *A firearm regulated pursuant to Chapter 2 (commencing*
36 *with Section 30500) of Division 10 acquired by a person who holds*
37 *a permit issued pursuant to Section 31005, if that person is acting*
38 *within the course and scope of his or her activities as a licensee*
39 *and in accordance with the terms and conditions of the permit.*

1 (11) A firearm regulated pursuant to Chapter 6 (commencing
2 with Section 32610) of Division 10 acquired by a person who holds
3 a permit issued pursuant to Section 32650, if that person is acting
4 within the course and scope of his or her activities as a licensee
5 and in accordance with the terms and conditions of the permit.

6 (12) A firearm regulated pursuant to Article 2 (commencing
7 with Section 33300) of Chapter 8 of Division 10 acquired by a
8 person who holds a permit issued pursuant to Section 33300, if
9 that person is acting within the course and scope of his or her
10 activities as a licensee and in accordance with the terms and
11 conditions of the permit.

12 (13) The importation of a firearm into the state, bringing a
13 firearm into the state, or transportation of a firearm into the state,
14 that is regulated by any of the following statutes, if the acquisition
15 of that firearm occurred outside of California and is conducted in
16 accordance with the applicable provisions of the following statutes:

17 (A) Chapter 1 (commencing with Section 18710) of Division
18 5 of Title 2, relating to destructive devices and explosives.

19 (B) Section 24410, relating to cane guns.

20 (C) Section 24510, relating to firearms that are not immediately
21 recognizable as firearms.

22 (D) Sections 24610 and 24680, relating to undetectable firearms.

23 (E) Section 24710, relating to wallet guns.

24 (F) Chapter 2 (commencing with Section 30500) of Division
25 10, relating to assault weapons.

26 (G) Section 31500, relating to unconventional pistols.

27 (H) Sections 33215 to 33225, inclusive, relating to short-barreled
28 rifles and short-barreled shotguns.

29 (I) Chapter 6 (commencing with Section 32610) of Division
30 10, relating to machineguns.

31 (J) Section 33600, relating to zip guns, and the exemptions in
32 Chapter 1 (commencing with Section 17700) of Division 2 of Title
33 2, as they relate to zip guns.

34 (c) The provisions of this section are cumulative and do not
35 restrict the application of any other law. However, an act or
36 omission punishable in different ways by this section and different
37 provisions of this code shall not be punished under more than one
38 provision.

39 SEC. 4. Section 27590 of the Penal Code is amended to read:

1 27590. (a) Except as provided in subdivision (b), (c), or (e),
2 a violation of this article is a misdemeanor.
3 (b) If any of the following circumstances apply, a violation of
4 this article is punishable by imprisonment pursuant to subdivision
5 (h) of Section 1170 for two, three, or four years.
6 (1) If the violation is of subdivision (a) of Section 27500.
7 (2) If the defendant has a prior conviction of violating the
8 provisions, other than Section 27535, Section 27560 involving a
9 firearm that is not a handgun, or Section 27565 involving a firearm
10 that is not a handgun, of this article or former Section 12100 of
11 this code, as Section 12100 read at any time from when it was
12 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
13 when it was repealed by Section 18 of Chapter 23 of the Statutes
14 of 1994, or Section 8101 of the Welfare and Institutions Code.
15 (3) If the defendant has a prior conviction of violating any
16 offense specified in Section 29905 or of a violation of Section
17 32625 or 33410, or of former Section 12560, as that section read
18 at any time from when it was enacted by Section 4 of Chapter 931
19 of the Statutes of 1965 to when it was repealed by Section 14 of
20 Chapter 9 of the Statutes of 1990, or of any provision listed in
21 Section 16590.
22 (4) If the defendant is in a prohibited class described in Chapter
23 2 (commencing with Section 29800) or Chapter 3 (commencing
24 with Section 29900) of Division 9 of this title, or Section 8100 or
25 8103 of the Welfare and Institutions Code.
26 (5) A violation of this article by a person who actively
27 participates in a “criminal street gang” as defined in Section 186.22.
28 (6) A violation of Section 27510 involving the delivery of any
29 firearm to a person who the dealer knows, or should know, is a
30 minor.
31 (c) If any of the following circumstances apply, a violation of
32 this article shall be punished by imprisonment in a county jail not
33 exceeding one year or pursuant to subdivision (h) of Section 1170,
34 or by a fine not to exceed one thousand dollars (\$1,000), or by
35 both that fine and imprisonment.
36 (1) A violation of Section 27515, 27520, or subdivision (b) of
37 Section 27500.
38 (2) A violation of Section 27505 involving the sale, loan, or
39 transfer of a handgun to a minor.

1 (3) A violation of Section 27510 involving the delivery of a
2 handgun.

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

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

6 (6) A violation of Section 27550.

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

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

12 (1) A violation of Section 27510 or subdivision (b) of Section
13 27500.

14 (2) The firearm transferred in violation of Section 27510 or
15 subdivision (b) of Section 27500 is used in the subsequent
16 commission of a felony for which a conviction is obtained and the
17 prescribed sentence is imposed.

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

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

22 (3) A third or subsequent violation of Section 27535 is a
23 misdemeanor.

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

27 SEC. 5. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

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