

AMENDED IN SENATE MARCH 20, 2013

AMENDED IN SENATE JANUARY 24, 2013

**SENATE BILL**

**No. 47**

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**Introduced by Senator Yee**

**(Coauthors: Senators ~~De León~~ *De León, Leno, and Steinberg*)**

**(~~Coauthor: Assembly Member Dickinson~~ *Members Bloom, Dickinson, and Ting*)**

December 18, 2012

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An act to amend Sections 30515 and 30900 of, and to add Section 30680 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 47, as amended, Yee. Firearms: assault weapons.

(1) Existing law generally prohibits the possession or transfer of assault weapons, except for the sale, purchase, importation, or possession of assault weapons by specified individuals, including law enforcement officers. Under existing law, "assault weapon" means, among other things, a semiautomatic, centerfire rifle or a semiautomatic pistol that has the capacity to accept a detachable magazine and has any one of specified attributes, including, for rifles, a thumbhole stock, and for pistols, a second handgrip.

This bill would revise these provisions to mean a semiautomatic, centerfire rifle or a semiautomatic pistol that does not have a fixed magazine but has any one of those specified attributes.

This bill would also define "fixed magazine" to mean an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

By expanding the definition of an existing crime, the bill would impose a state-mandated local program.

(2) Existing law requires that any person who, within this state, possesses any .50 BMG rifle, an assault weapon, except as otherwise provided, be punished by a fine of \$1,000, imprisonment in a county jail as a felony or for a period not to exceed one year, or by both that fine and imprisonment in a county jail.

This bill would exclude exempt from those provisions punishment a person who possessed an assault weapon under that provision prior to January 1, 2014, and until July 1, 2014, if specified requirements are met.

(3) Existing law requires that, with specified exceptions, any person who, prior to January 1, 2001, lawfully possessed an assault weapon prior to the date it was defined as an assault weapon, and which was not specified as an assault weapon at the time of lawful possession, register the firearm with the Department of Justice. *Existing law permits the Department of Justice to charge a fee for registration of up to \$20 per person but not to exceed the actual processing costs of the department. Existing law, after the department establishes fees sufficient to reimburse the department for processing costs, requires fees charged to increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act. Existing law requires those fees to be deposited into the Dealers' Record of Sale Special Account. Existing law, the Administrative Procedure Act, establishes the requirements for the adoption, publication, review, and implementation of regulations by state agencies.*

This bill would require that any person who, from January 1, 2001, to December 31, 2013, inclusive, lawfully possessed an assault weapon that does not have a fixed magazine, as defined, and including those weapons with an ammunition feeding device that can be removed readily from the firearm with the use of a tool, register the firearm before July 1, 2014, with the Department of Justice. *This bill would permit the department to increase the \$20 registration fee as long as it does not exceed the reasonable processing costs of the department. This bill would also require registrations to be submitted electronically via the Internet utilizing a public-facing application made available by the department. This bill would require the registration to contain specified information, including, but not limited to, a description of the firearm that identifies it uniquely and specified information about the registrant.*

*This bill would permit the department to charge a fee of up to \$15 per person for registration through the Internet, not to exceed the reasonable processing costs of the department to be paid and deposited, as specified. This bill would require the department to establish procedures for the purpose of carrying out those provisions and would exempt them from the Administrative Procedure Act. This bill would also make technical and conforming changes.*

(4) 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 30515 of the Penal Code is amended to  
2 read:

3 30515. (a) Notwithstanding Section 30510, “assault weapon”  
4 also means any of the following:

5 (1) A semiautomatic, centerfire rifle that does not have a fixed  
6 magazine but has any one of the following:

7 (A) A pistol grip that protrudes conspicuously beneath the action  
8 of the weapon.

9 (B) A thumbhole stock.

10 (C) A folding or telescoping stock.

11 (D) A grenade launcher or flare launcher.

12 (E) A flash suppressor.

13 (F) A forward pistol grip.

14 (2) A semiautomatic, centerfire rifle that has a fixed magazine  
15 with the capacity to accept more than 10 rounds.

16 (3) A semiautomatic, centerfire rifle that has an overall length  
17 of less than 30 inches.

18 (4) A semiautomatic pistol that does not have a fixed magazine  
19 but has any one of the following:

20 (A) A threaded barrel, capable of accepting a flash suppressor,  
21 forward handgrip, or silencer.

22 (B) A second handgrip.

1 (C) A shroud that is attached to, or partially or completely  
2 encircles, the barrel that allows the bearer to fire the weapon  
3 without burning the bearer’s hand, except a slide that encloses the  
4 barrel.

5 (D) The capacity to accept a detachable magazine at some  
6 location outside of the pistol grip.

7 (5) A semiautomatic pistol with a fixed magazine that has the  
8 capacity to accept more than 10 rounds.

9 (6) A semiautomatic shotgun that has both of the following:

10 (A) A folding or telescoping stock.

11 (B) A pistol grip that protrudes conspicuously beneath the action  
12 of the weapon, thumbhole stock, or vertical handgrip.

13 (7) A semiautomatic shotgun that has the ability to accept a  
14 detachable magazine.

15 (8) Any shotgun with a revolving cylinder.

16 (b) For purposes of this section, “fixed magazine” means an  
17 ammunition feeding device contained in, or permanently attached  
18 to, a firearm in such a manner that the device cannot be removed  
19 without disassembly of the firearm action.

20 (c) The Legislature finds a significant public purpose in  
21 exempting from the definition of “assault weapon” pistols that are  
22 designed expressly for use in Olympic target shooting events.  
23 Therefore, those pistols that are sanctioned by the International  
24 Olympic Committee and by USA Shooting, the national governing  
25 body for international shooting competition in the United States,  
26 and that were used for Olympic target shooting purposes as of  
27 January 1, 2001, and that would otherwise fall within the definition  
28 of “assault weapon” pursuant to this section are exempt, as  
29 provided in subdivision (d).

30 (d) “Assault weapon” does not include either of the following:

31 (1) Any antique firearm.

32 (2) Any of the following pistols, because they are consistent  
33 with the significant public purpose expressed in subdivision (c):

34	MANUFACTURER	MODEL	CALIBER
35			
36			
37	BENELLI	MP90	.22LR
38	BENELLI	MP90	.32 S&W LONG
39	BENELLI	MP95	.22LR
40	BENELLI	MP95	.32 S&W LONG

1	HAMMERLI	280	.22LR
2	HAMMERLI	280	.32 S&W LONG
3	HAMMERLI	SP20	.22LR
4	HAMMERLI	SP20	.32 S&W LONG
5	PARDINI	GPO	.22 SHORT
6	PARDINI	GP-SCHUMANN	.22 SHORT
7	PARDINI	HP	.32 S&W LONG
8	PARDINI	MP	.32 S&W LONG
9	PARDINI	SP	.22LR
10	PARDINI	SPE	.22LR
11	WALTHER	GSP	.22LR
12	WALTHER	GSP	.32 S&W LONG
13	WALTHER	OSP	.22 SHORT
14	WALTHER	OSP-2000	.22 SHORT

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16 (3) The Department of Justice shall create a program that is  
 17 consistent with the purposes stated in subdivision (c) to exempt  
 18 new models of competitive pistols that would otherwise fall within  
 19 the definition of “assault weapon” pursuant to this section from  
 20 being classified as an assault weapon. The exempt competitive  
 21 pistols may be based on recommendations by USA Shooting  
 22 consistent with the regulations contained in the USA Shooting  
 23 Official Rules or may be based on the recommendation or rules  
 24 of any other organization that the department deems relevant.

25 SEC. 2. Section 30680 is added to the Penal Code, to read:

26 30680. Notwithstanding the meaning of “assault weapon” under  
 27 Section 30515, as amended by the act that added this section,  
 28 ~~Section 30610 shall not apply to the possession of any person who~~  
 29 ~~possessed an assault weapon by a person who initially possessed~~  
 30 ~~the assault weapon prior to July 1, 2014, January 1, 2014, is exempt~~  
 31 ~~from punishment pursuant to Section 30605 until July 1, 2014, if~~  
 32 all of the following are applicable:

33 (a) During the person’s possession, the person was eligible to  
 34 register that assault weapon pursuant to subdivision (c) of Section  
 35 30900.

36 (b) The person lawfully possessed that assault weapon on  
 37 January 1, 2014.

38 (c) ~~During the person’s possession, the person was otherwise~~  
 39 ~~in compliance with the then-applicable version of former Chapter~~

1 ~~2.3 (commencing with Section 12275) of Title 2 of Part 4 or this~~  
2 ~~chapter, as the case may be.~~

3 SEC. 3. Section 30900 of the Penal Code is amended to read:

4 30900. (a) (1) Any person who, prior to June 1, 1989, lawfully  
5 possessed an assault weapon, as defined in former Section 12276,  
6 as added by Section 3 of Chapter 19 of the Statutes of 1989, shall  
7 register the firearm by January 1, 1991, and any person who  
8 lawfully possessed an assault weapon prior to the date it was  
9 specified as an assault weapon pursuant to former Section 12276.5,  
10 as added by Section 3 of Chapter 19 of the Statutes of 1989 or as  
11 amended by Section 1 of Chapter 874 of the Statutes of 1990 or  
12 Section 3 of Chapter 954 of the Statutes of 1991, shall register the  
13 firearm within 90 days with the Department of Justice pursuant to  
14 those procedures that the department may establish.

15 ~~(b)~~

16 (2) Except as provided in Section 30600, any person who  
17 lawfully possessed an assault weapon prior to the date it was  
18 defined as an assault weapon pursuant to former Section 12276.1,  
19 as it read in Section 7 of Chapter 129 of the Statutes of 1999, and  
20 which was not specified as an assault weapon under former Section  
21 12276, as added by Section 3 of Chapter 19 of the Statutes of 1989  
22 or as amended at any time before January 1, 2001, or former  
23 Section 12276.5, as added by Section 3 of Chapter 19 of the  
24 Statutes of 1989 or as amended at any time before January 1, 2001,  
25 shall register the firearm by January 1, 2001, with the department  
26 pursuant to those procedures that the department may establish.

27 ~~(c) Any person who, from January 1, 2001, to December 31,~~  
28 ~~2013, inclusive, lawfully possessed an assault weapon that does~~  
29 ~~not have a fixed magazine, as defined in Section 30515, and~~  
30 ~~including those weapons with an ammunition feeding device that~~  
31 ~~can be removed readily from the firearm with the use of a tool,~~  
32 ~~shall register the firearm before July 1, 2014, with the department~~  
33 ~~pursuant to those procedures that the department may establish.~~

34 ~~(d)~~

35 (3) The registration shall contain a description of the firearm  
36 that identifies it uniquely, including all identification marks, the  
37 full name, address, date of birth, and thumbprint of the owner, and  
38 any other information that the department may deem appropriate.

39 ~~(e)~~

1 (4) The department may charge a fee for registration of up to  
2 twenty dollars (\$20) per person but not to exceed the ~~actual~~  
3 *reasonable* processing costs of the department. After the  
4 department establishes fees sufficient to reimburse the department  
5 for processing costs, fees charged shall increase at a rate not to  
6 exceed the legislatively approved annual cost-of-living adjustment  
7 for the department's budget or as otherwise increased through the  
8 Budget Act but not to exceed the ~~actual~~ *reasonable* processing  
9 costs of the department. The fees shall be deposited into the  
10 Dealers' Record of Sale Special Account.

11 (b) (1) *Any person who, from January 1, 2001, to December*  
12 *31, 2013, inclusive, lawfully possessed an assault weapon that*  
13 *does not have a fixed magazine, as defined in Section 30515,*  
14 *including those weapons with an ammunition feeding device that*  
15 *can be removed readily from the firearm with the use of a tool,*  
16 *shall register the firearm before July 1, 2014, with the department*  
17 *pursuant to those procedures that the department may establish.*

18 (2) *Registrations shall be submitted electronically via the*  
19 *Internet utilizing a public-facing application made available by*  
20 *the department.*

21 (3) *The registration shall contain a description of the firearm*  
22 *that identifies it uniquely, including all identification marks, the*  
23 *date the firearm was acquired, the name and address of the*  
24 *individual from whom, or business from which, the firearm was*  
25 *acquired, as well as the registrant's full name, address, telephone*  
26 *number, date of birth, sex, height, weight, eye color, hair color,*  
27 *and California driver's license number or California identification*  
28 *card number.*

29 (4) *The department may charge a fee of up to fifteen dollars*  
30 *(\$15) per person but not to exceed the reasonable processing costs*  
31 *of the department. The fee shall be paid by debit or credit card at*  
32 *the time that the electronic registration is submitted to the*  
33 *department. The fee shall be deposited in the Dealers' Record of*  
34 *Sale Special Account.*

35 (5) *The department shall establish procedures for the purpose*  
36 *of carrying out this subdivision. These procedures shall be exempt*  
37 *from the Administrative Procedure Act.*

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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