

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 2, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 363

Introduced by Senator Wright

February 20, 2013

An act to amend Sections 25100 and 32015 of, *and to add Chapter 4 (commencing with Section 25240) to Division 4 of Title 4 of Part 6 of, the Penal Code, relating to firearms.*

LEGISLATIVE COUNSEL'S DIGEST

SB 363, as amended, Wright. Firearms: criminal storage: unsafe handguns: fees.

(1) Existing law requires the Department of Justice to maintain a roster listing all pistols, revolvers, and other firearms capable of being concealed on the person that have been tested by a certified testing laboratory and have been determined not to be unsafe handguns. Existing law allows the department to charge manufacturers of firearms an annual fee not to exceed the costs of preparing, publishing, and maintaining the roster.

This bill would require the annual fee, commencing on January 1, 2015, to be paid on January 1 of every year.

(2) *Existing law prohibits specified classes of persons from owning or possessing firearms. Existing law defines the offense of criminal storage of a firearm, as the storage by a person of a loaded firearm on his or her premises with the knowledge or constructive knowledge that a child is likely to gain access to the firearm, as specified.*

This bill would require each person who owns or possesses any firearm who resides with an individual who he or she knows, or has reason to know, is prohibited from possessing, receiving, owning, or purchasing a firearm, as specified, to secure the firearm within a locked container, or with a locking device, or within a gun safe, as specified, and to store the firearm so that the individual may not gain access to the firearm. The bill would make a violation of this requirement a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding \$1,000, or by both that fine and imprisonment.

By creating a new crime, this bill would impose a state-mandated local program.

(2)

(3) Existing law, subject to exceptions, provides that the offense of criminal storage of a firearm is committed when a person who keeps any loaded firearm within any premises that are under the person's custody or control knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, and the child obtains access to the firearm and thereby causes death or injury to the child or any other person, as specified, or carries the firearm to a public place, or unlawfully displays or uses the firearm, as specified.

This bill would expand these provisions to include the circumstance of when the person who keeps the firearm knows or reasonably should know that a person prohibited from owning or possessing a firearm or deadly weapon, as specified, is likely to gain access to the firearm, and that person gains access to the firearm and thereby causes death or injury to himself or herself or any other person, as specified, or carries the firearm to a public place, or unlawfully displays or uses the firearm, as specified.

By expanding the scope of an existing 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 25100 of the Penal Code is amended to
2 read:

3 25100. (a) Except as provided in Section 25105, a person
4 commits the crime of “criminal storage of a firearm of the first
5 degree” if all of the following conditions are satisfied:

6 (1) The person keeps any loaded firearm within any premises
7 that are under the person’s custody or control.

8 (2) The person knows or reasonably should know that a child
9 is likely to gain access to the firearm without the permission of
10 the child’s parent or legal guardian, or that a person prohibited
11 from possessing a firearm or deadly weapon pursuant to ~~Section~~
12 ~~8100 or 8103 of the Welfare and Institutions Code~~ *state or federal*
13 *law* is likely to gain access to the firearm.

14 (3) The child obtains access to the firearm and thereby causes
15 death or great bodily injury to the child or any other person, or the
16 person prohibited from possessing a firearm or deadly weapon
17 pursuant to ~~Section 8100 or 8103 of the Welfare and Institutions~~
18 ~~Code~~ *state or federal law* obtains access to the firearm and thereby
19 causes death or great bodily injury to himself or herself or any
20 other person.

21 (b) Except as provided in Section 25105, a person commits the
22 crime of “criminal storage of a firearm of the second degree” if
23 all of the following conditions are satisfied:

24 (1) The person keeps any loaded firearm within any premises
25 that are under the person’s custody or control.

26 (2) The person knows or reasonably should know that a child
27 is likely to gain access to the firearm without the permission of
28 the child’s parent or legal guardian, or that a person prohibited
29 from possessing a firearm or deadly weapon pursuant to ~~Section~~
30 ~~8100 or 8103 of the Welfare and Institutions Code~~ *state or federal*
31 *law* is likely to gain access to the firearm.

32 (3) The child obtains access to the firearm and thereby causes
33 injury, other than great bodily injury, to the child or any other
34 person, or carries the firearm either to a public place or in violation
35 of Section 417, or the person prohibited from possessing a firearm
36 or deadly weapon pursuant to ~~Section 8100 or 8103 of the Welfare~~
37 ~~and Institutions Code~~ *state or federal law* obtains access to the
38 firearm and thereby causes injury, other than great bodily injury,

1 to himself or herself or any other person, or carries the firearm
 2 either to a public place or in violation of Section 417.

3 *SEC. 2. Chapter 4 (commencing with Section 25240) is added*
 4 *to Division 4 of Title 4 of Part 6 of the Penal Code, to read:*

5

6 *CHAPTER 4. FIREARM STORAGE AND PROHIBITED PERSONS*

7

8 *25240. (a) Each person who owns or possesses any firearm*
 9 *and resides with an individual who he or she knows, or has reason*
 10 *to know, is prohibited from possessing, receiving, owning, or*
 11 *purchasing a firearm pursuant to state or federal law shall secure*
 12 *the firearm within a locked container as described in Section*
 13 *16850, or with a locking device as described in Section 16860, or*
 14 *within a gun safe as described in Section 16870, and store the*
 15 *firearm in a manner that the individual may not gain access to the*
 16 *firearm.*

17 *(b) A violation of this section is a misdemeanor punishable by*
 18 *imprisonment in a county jail not exceeding one year, or a fine*
 19 *not exceeding one thousand dollars (\$1,000), or by both that fine*
 20 *and imprisonment.*

21 ~~SEC. 2.~~

22 *SEC. 3. Section 32015 of the Penal Code is amended to read:*

23 *32015. (a) On and after January 1, 2001, the Department of*
 24 *Justice shall compile, publish, and thereafter maintain a roster*
 25 *listing all of the pistols, revolvers, and other firearms capable of*
 26 *being concealed upon the person that have been tested by a certified*
 27 *testing laboratory, have been determined not to be unsafe handguns,*
 28 *and may be sold in this state pursuant to this part. The roster shall*
 29 *list, for each firearm, the manufacturer, model number, and model*
 30 *name.*

31 *(b) (1) The department may charge every person in this state*
 32 *who is licensed as a manufacturer of firearms pursuant to Chapter*
 33 *44 (commencing with Section 921) of Title 18 of the United States*
 34 *Code, and any person in this state who manufactures or causes to*
 35 *be manufactured, imports into the state for sale, keeps for sale, or*
 36 *offers or exposes for sale any pistol, revolver, or other firearm*
 37 *capable of being concealed upon the person in this state, an annual*
 38 *fee not exceeding the costs of preparing, publishing, and*
 39 *maintaining the roster pursuant to subdivision (a) and the costs of*
 40 *research and development, report analysis, firearms storage, and*

1 other program infrastructure costs necessary to implement Sections
2 31900 to 32110, inclusive. Commencing January 1, 2015, the
3 annual fee shall be paid on January 1 of every year.

4 (2) Any pistol, revolver, or other firearm capable of being
5 concealed upon the person that is manufactured by a manufacturer
6 who manufactures or causes to be manufactured, imports into the
7 state for sale, keeps for sale, or offers or exposes for sale any pistol,
8 revolver, or other firearm capable of being concealed upon the
9 person in this state, and who fails to pay any fee required pursuant
10 to paragraph (1), may be excluded from the roster.

11 (3) If a purchaser has initiated a transfer of a handgun that is
12 listed on the roster as not unsafe, and prior to the completion of
13 the transfer, the handgun is removed from the roster of not unsafe
14 handguns because of failure to pay the fee required to keep that
15 handgun listed on the roster, the handgun shall be deliverable to
16 the purchaser if the purchaser is not otherwise prohibited from
17 purchasing or possessing the handgun. However, if a purchaser
18 has initiated a transfer of a handgun that is listed on the roster as
19 not unsafe, and prior to the completion of the transfer, the handgun
20 is removed from the roster pursuant to subdivision (d) of Section
21 32020, the handgun shall not be deliverable to the purchaser.

22 ~~SEC. 3.~~

23 *SEC. 4.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.