

AMENDED IN ASSEMBLY JUNE 11, 2013

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.~~

~~(3)~~

(2) 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 state or
12 federal law is likely to gain access to the firearm.

13 (3) The child obtains access to the firearm and thereby causes
14 death or great bodily injury to the child or any other person, or the
15 person prohibited from possessing a firearm or deadly weapon
16 pursuant to state or federal law obtains access to the firearm and
17 thereby causes death or great bodily injury to himself or herself
18 or any other person.

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

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

24 (2) The person knows or reasonably should know that a child
25 is likely to gain access to the firearm without the permission of
26 the child’s parent or legal guardian, or that a person prohibited
27 from possessing a firearm or deadly weapon pursuant to state or
28 federal law is likely to gain access to the firearm.

29 (3) The child obtains access to the firearm and thereby causes
30 injury, other than great bodily injury, to the child or any other
31 person, or carries the firearm either to a public place or in violation
32 of Section 417, or the person prohibited from possessing a firearm
33 or deadly weapon pursuant to state or federal law obtains access
34 to the firearm and thereby causes injury, other than great bodily
35 injury, to himself or herself or any other person, or carries the
36 firearm either to a public place or in violation of Section 417.

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

1 ~~CHAPTER 4. FIREARM STORAGE AND PROHIBITED PERSONS~~

2
3 ~~25240. (a) Each person who owns or possesses any firearm~~
4 ~~and resides with an individual who he or she knows, or has reason~~
5 ~~to know, is prohibited from possessing, receiving, owning, or~~
6 ~~purchasing a firearm pursuant to state or federal law shall secure~~
7 ~~the firearm within a locked container as described in Section 16850;~~
8 ~~or with a locking device as described in Section 16860, or within~~
9 ~~a gun safe as described in Section 16870, and store the firearm in~~
10 ~~a manner that the individual may not gain access to the firearm.~~

11 ~~(b) A violation of this section is a misdemeanor punishable by~~
12 ~~imprisonment in a county jail not exceeding one year, or a fine not~~
13 ~~exceeding one thousand dollars (\$1,000), or by both that fine and~~
14 ~~imprisonment.~~

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 32015 of the Penal Code is amended to read:

17 32015. (a) On and after January 1, 2001, the Department of
18 Justice shall compile, publish, and thereafter maintain a roster
19 listing all of the pistols, revolvers, and other firearms capable of
20 being concealed upon the person that have been tested by a certified
21 testing laboratory, have been determined not to be unsafe handguns,
22 and may be sold in this state pursuant to this part. The roster shall
23 list, for each firearm, the manufacturer, model number, and model
24 name.

25 (b) (1) The department may charge every person in this state
26 who is licensed as a manufacturer of firearms pursuant to Chapter
27 44 (commencing with Section 921) of Title 18 of the United States
28 Code, and any person in this state who manufactures or causes to
29 be manufactured, imports into the state for sale, keeps for sale, or
30 offers or exposes for sale any pistol, revolver, or other firearm
31 capable of being concealed upon the person in this state, an annual
32 fee not exceeding the costs of preparing, publishing, and
33 maintaining the roster pursuant to subdivision (a) and the costs of
34 research and development, report analysis, firearms storage, and
35 other program infrastructure costs necessary to implement Sections
36 31900 to 32110, inclusive. Commencing January 1, 2015, the
37 annual fee shall be paid on January 1 of every year.

38 (2) Any pistol, revolver, or other firearm capable of being
39 concealed upon the person that is manufactured by a manufacturer
40 who manufactures or causes to be manufactured, imports into the

1 state for sale, keeps for sale, or offers or exposes for sale any pistol,
2 revolver, or other firearm capable of being concealed upon the
3 person in this state, and who fails to pay any fee required pursuant
4 to paragraph (1), may be excluded from the roster.

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

16 ~~SEC. 4.~~

17 *SEC. 3.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.