

**Senate Bill No. 567**

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Passed the Senate September 11, 2013

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*Secretary of the Senate*

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Passed the Assembly September 11, 2013

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 17190 and 30900 of, and to add Section 30903 to, the Penal Code, relating to firearms.

## LEGISLATIVE COUNSEL'S DIGEST

SB 567, Jackson. Firearms: shotguns.

(1) Existing law, for purposes of regulation, defines a shotgun as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles or a single projectile for each pull of the trigger.

This bill would revise the definition of a shotgun to delete the requirement that it be intended to be fired from the shoulder, and would clarify that the projectile may be fired through either a rifled bore or a smooth bore. The bill would state that this definition does not include handguns, except as specified. The bill would also delete an erroneous cross-reference.

(2) 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 defines a shotgun with a revolving cylinder as an assault weapon. 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, the Administrative Procedure Act, establishes the requirements for the adoption, publication, review, and implementation of regulations by state agencies.

This bill would require that those fees do not exceed the reasonable processing costs of the department. The bill would

require any person who, from January 1, 2001, to December 31, 2013, inclusive, lawfully acquired a shotgun with a revolving cylinder, as defined, including those firearms subject to the revised definition of “shotgun,” to register the firearm before July 1, 2015, with the department pursuant to those procedures that the department may establish. The bill would prohibit an individual from being penalized for a violation of that requirement prior to July 1, 2015. The bill would require registrations to be submitted electronically via the Internet, as specified. The 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. The bill would authorize the department to adopt regulations for the purpose of carrying out those provisions and would exempt those regulations from the Administrative Procedure Act. The bill would authorize the department to charge a fee for registration of each assault weapon of up to \$20 per firearm but not to exceed the reasonable processing costs of the department, as specified. The bill would require payment be made by debit or credit card, as specified. The bill would also make technical and conforming changes.

By changing the definition of an existing crime, this bill imposes 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.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The Penal Code does not currently include a consistent definition of the term “shotgun.”

(b) Section 17190 of the Penal Code currently defines a shotgun as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of

projectiles (ball shot) or a single projectile for each pull of the trigger.”

(c) Section 16460 of the Penal Code, however, does not describe a shotgun as being capable of being shot from the shoulder, but does describe shotguns as having a rifled bore. Specifically, Section 16460 of the Penal Code exempts “shotguns” with a “smooth or rifled bore” from the destructive device ban.

(d) Section 12021.5 of the Penal Code further confuses the definition of shotgun by stating that a “shotgun” shall have the same meaning as that of Section 17190 of the Penal Code and that a “detachable shotgun magazine” is a device that may be attached to a “firearm that is designed or redesigned to fire a fixed shotgun shell through a smooth or rifled bore.”

(e) The intent of this act is to create a consistent definition of the term “shotgun” in the Penal Code. Consistency can be achieved by changing the definition in Section 17190 of the Penal Code.

(f) The intent of this act is not to ban handguns, nor is it intended to limit the use of “bird shot” or “snake shot,” which is ammunition specifically designed for rodent, snake, or bird control.

SEC. 2. Section 17190 of the Penal Code is amended to read:

17190. As used in Sections 16530, 16640, 16870, and 17180, Sections 17720 to 17730, inclusive, Section 17740, Section 30215, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “shotgun” means a weapon designed or redesigned, made or remade, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore or rifled bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger. Except as used in Sections 16530 and 16640, and as used in Section 17180, only as that section applies to Sections 16530 and 16640, this definition does not include handguns.

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

30900. (a) Any person who, prior to June 1, 1989, lawfully possessed an assault weapon, as defined in former Section 12276, as added by Section 3 of Chapter 19 of the Statutes of 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to former Section 12276.5, as added by Section 3 of Chapter 19 of the Statutes of 1989 or as amended by Section 1 of Chapter 874 of the Statutes of 1990 or

Section 3 of Chapter 954 of the Statutes of 1991, shall register the firearm within 90 days with the Department of Justice pursuant to those procedures that the department may establish.

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

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

(d) The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the reasonable processing costs of the department. After the department establishes fees sufficient to reimburse the department for reasonable processing costs, fees charged shall increase at a rate not to exceed the department's reasonable processing costs. The fees shall be deposited into the Dealers' Record of Sale Special Account.

SEC. 4. Section 30903 is added to the Penal Code, to read:

30903. (a) Any person who, from January 1, 2001, to December 31, 2013, inclusive, lawfully acquired a shotgun with a revolving cylinder, as defined in Sections 17190 and 30515 and who, after January 1, 2014, lawfully possesses that firearm, shall register the firearm before July 1, 2015, with the department pursuant to those procedures that the department establishes by regulation pursuant to subdivision (d).

(b) Registrations shall be submitted either electronically via the Internet utilizing a public-facing application made available by the department, or through a licensed firearm dealer.

(c) The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the date that the firearm was acquired, the full name and address of the individual from whom, or the business from which, the firearm

was acquired, the registrant's full name, address, telephone number, date of birth, sex, height, weight, eye color, hair color, and California driver's license or California identification card number.

(d) The department shall establish rules and regulations for the purpose of implementing this subdivision. These regulations shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the reasonable processing costs of the department. After the department establishes fees sufficient to reimburse the department for reasonable processing costs, fees charged shall increase at a rate not to exceed the department's reasonable processing costs. The fees shall be paid by debit or credit card at the time the electronic registration is submitted to the department and shall be deposited into the Dealers' Record of Sale Special Account.

(f) No individual shall be penalized for a violation of subdivision (a) prior to July 1, 2015.

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



Approved \_\_\_\_\_, 2013

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*Governor*