

AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE MARCH 19, 2014

SENATE BILL

No. 916

**Introduced by Senator Correa
(Principal coauthor: Senator Block)
(Coauthor: Senator Galgiani)**

January 27, 2014

An act to amend ~~Section 25250.1 of the Health and Safety Code, to add Section 12405 to, and to add Article 7.7 (commencing with Section 10409.1) to Chapter 2 of Part 2 of Division 2 of, the Public Contract Code, and to add Chapter 5.8 (commencing with Section 42359) to Part 3 of Division 30 of the Public Resources Code, relating to lubricating oil; Sections 32025, 32030, and 32110 of the Penal Code, relating to firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 916, as amended, Correa. ~~Lubricating oil: biosynthetic lubricants: procurement: sale. Firearms.~~

(1) Existing law establishes various requirements governing unsafe handguns, as defined. Among other things, existing law makes it a crime, punishable by imprisonment in a county jail not exceeding one year, to manufacture, import into the state for sale, keep for sale, offer or expose for sale, give, or lend an unsafe handgun. Existing law also requires handguns imported into the state for sale, kept for sale, or offered or exposed for sale, to be tested, as specified, to determine if they are unsafe. Existing law requires the Department of Justice to maintain a roster listing the handguns that have been tested and have been determined not to be unsafe. Existing law specifies various exceptions from these requirements.

Existing law allows a handgun model that has been included in the roster to be retested and allows the handgun model to be removed from the roster if it fails retesting. Existing law allows a handgun model removed from the roster for failing retesting to be reinstated upon a petition to the Attorney General for reinstatement and successful retesting, as specified.

This bill would allow a handgun model removed from the roster for any other reason to be reinstated to the roster upon a petition to the Attorney General for reinstatement and successful retesting, as specified. The bill would require that a handgun model that is reinstated to the roster pursuant to these provisions only meet the requirements for listing as of the date the handgun model was originally submitted for testing.

(2) Under existing law, a firearm is deemed to meet the requirements for being listed on the roster if another firearm made by the same manufacturer is already listed on the roster and the unlisted firearm differs from the listed firearm in certain specified ways, including any purely cosmetic feature.

This bill would require that a firearm be deemed to satisfy the requirements for being listed on the roster if another firearm made by the same manufacturer is already listed on the roster and the unlisted firearm possesses the same make and model designation, is of the same caliber and barrel length, and is identical to the listed firearm except that a part of the firearm has been redesigned, is made using a different manufacturing technique, is made out of a different material, or includes any other noncosmetic change. The bill would require that a firearm deemed to meet the requirements for being listed on the roster pursuant to these provisions only meet the requirements for listing as of the date the similar listed firearm was originally submitted for testing. The bill would require a manufacturer seeking to have a firearm deemed to satisfy the requirements for being listed on the roster to provide the Department of Justice with a declaration, under oath, stating the nature of the change and that the firearm differs from the previous version only in the manner specified. Because a false statement made under oath would be a crime, the bill would impose a state-mandated local program.

The bill would prohibit a manufacturer of a firearm that has already been modified in these ways as of January 1, 2015, from being considered to be in violation of the provisions of law prohibiting the sale of unsafe handguns if the manufacturer complies with these

requirements and submits the firearm to be tested no later than March 31, 2015.

(3) Existing law provides that the provisions defining and governing unsafe handguns do not apply to certain transactions, including the sale, loan, or transfer of any firearm in a transaction that requires the use of a licensed dealer, or where the sale, loan, or transfer is exempt from the provisions of law requiring the transfer to be conducted through a licensed firearms dealer, among others.

This bill would make the provisions defining and governing unsafe handguns inapplicable to the sale, loan, or transfer of a handgun by a licensed firearms dealer if the firearm previously appeared on the roster but was removed for any reason other than failing retesting and the licensee notified the Department of Justice of the number of qualifying firearms in its inventory within 30 days of the firearm being removed from the roster.

(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.

~~(1) Existing law authorizes the Department of Toxic Substances Control to regulate the disposal of hazardous waste, including used oil, and, for those purposes, defines “used oil” to mean oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities.~~

~~This bill would specify that synthetic oil includes oil composed of biobased feedstock for these purposes.~~

~~(2) Existing law requires state agencies and contractors with state agencies to purchase lubricating oil, as defined, and industrial oil, as defined, containing the greatest percentage of recycled oil, unless a specified certification is made. Existing law also requires local agencies to purchase lubricating oil and industrial oil that contains recycled oil if the product meets specified conditions.~~

~~This bill, on and after January 1, 2016, would require a state agency, and any person or entity contracting with a state agency for the supply of lubricating oil, to purchase only biosynthetic lubricant that meets certain requirements, including minimal standards for biodegradability. The bill would require the Department of General Services, by July 31,~~

2015, to provide language for a state agency to include in a contract or grant implementing these provisions. The bill would authorize a state agency, city, county, city and county, or district to purchase biosynthetic lubricant that meets the specified requirements.

~~(3) The California Oil Recycling Enhancement Act, administered by the Department of Resources Recycling and Recovery, imposes a charge upon the sale of lubricating oil, for deposit in the California Used Oil Recycling Fund, and continuously appropriates money from the fund to the department to provide, among other things, grants and contracts to local governments, nonprofit entities, and private entities and recycling incentives to every industrial generator, curbside collection program, and certified used oil collection center for collected or generated used lubricating oil. Existing law prohibits the sale of engine oil and lubricating oil unless the product conforms to certain specifications.~~

~~This bill would prohibit on and after January 1, 2017, the sale of lubricating oil in the state unless the lubricating oil meets certain requirements, including meeting or exceeding the minimal standards for biodegradability, as specified, and unless the producer of the biosynthetic lubricating oil files with the department a document by which the producer verifies that the lubricating oil meets the specified requirements. The bill would require the department to provide the producer with a unique lubricating oil biodegradability compliance number for each product self-verified by the producer.~~

~~The bill would authorize, on and after July 1, 2015, the Director of Resources Recycling and Recovery, in consultation with an advisory committee established by the bill as specified, to grant extensions, in increments of one year, of these requirements and the state agency biosynthetic lubricant purchasing requirements described above if the director finds that biosynthetic lubricating oil is not commercially available. The bill would authorize a procuring agency or person to sell, no later than 12 months after January 1, 2017, or 12 months after the end of the last of all extensions granted as discussed above, lubricating oil that does not meet the specified requirements if the procuring agency or person legally possessed the lubricating oil before the latter of those dates. The bill would require the procuring agency or person to maintain records to verify that the lubricating oil was in the person's or agency's possession before the latter date. The bill would require the department to inform local agencies and individuals of the benefits of biosynthetic lubricating oils.~~

~~(4) Existing law requires the Department of General Services, in consultation with the California Environmental Protection Agency, members of the public, industry, and public health and environmental organizations, to provide state agencies with information and assistance regarding environmentally preferable purchasing.~~

~~This bill would require the Department of General Services to maintain and update, on the department’s Internet Web site, a list that contains the names of biosynthetic lubricating oil products that meet the specified lubricating oil requirements. The bill would require the department to transmit a copy of this list to the Office of the President of the University of California to facilitate the University of California’s procurement efforts.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *With limited exceptions, existing law prohibits the*
- 4 *manufacture, importation, and sale by licensed firearm dealers in*
- 5 *California of handguns that do not appear on the roster of*
- 6 *handguns that have been determined not to be unsafe. These*
- 7 *firearms are considered “unsafe handguns.”*
- 8 (b) *Existing law requires that a handgun be listed on the roster*
- 9 *by make, model, gun type, barrel length, caliber, and expiration*
- 10 *date once the handgun meets certain testing and safety*
- 11 *requirements.*
- 12 (c) *Firearm manufacturers are constantly improving their*
- 13 *firearms to make them more safe, reliable, and functional for the*
- 14 *general public. These improvements may involve making slight*
- 15 *modifications in the design of a part, updating manufacturing*
- 16 *techniques, or using new and stronger materials. Often, as is*
- 17 *industry practice, these improvements do not change the handgun’s*
- 18 *make and model designation, and there is no outward difference*
- 19 *between the original handgun and the improved model. Existing*
- 20 *law is unclear as to whether these handguns are considered new*
- 21 *handgun models that would require retesting and relisting on the*
- 22 *roster.*

1 (d) Without the change to current law proposed by this act, it
2 will remain unclear whether manufacturers are permitted to
3 improve the safety of handguns that are already approved for sale
4 in California. Additionally, many firearms will be unavailable to
5 lawful California firearm owners if manufacturers cannot lawfully
6 make these improvements. Law abiding members of the public will
7 have increasingly narrower options available to them for
8 self-defense. With limited options, normally lawful firearm owners
9 will be forced to turn to other sources to acquire firearms available
10 in the other 49 states, including black market and illegal firearm
11 transactions.

12 (e) The purpose of this act is to clarify that manufacturers may
13 make improvements to handguns currently on the roster, and to
14 allow handguns that have fallen off of the roster for reasons other
15 than failing retesting to be returned to the roster by a petition to
16 the Attorney General.

17 SEC. 2. Section 32025 of the Penal Code is amended to read:

18 32025. (a) A handgun model removed from the roster pursuant
19 to subdivision (d) of Section 32020 may be reinstated on the roster
20 if all of the following are met:

21 ~~(a)~~

22 (1) The manufacturer petitions the Attorney General for
23 reinstatement of the handgun model.

24 ~~(b)~~

25 (2) The manufacturer pays the Department of Justice for all of
26 the costs related to the reinstatement testing of the handgun model,
27 including the purchase price of the handguns, prior to reinstatement
28 testing.

29 ~~(c)~~

30 (3) The reinstatement testing of the handguns shall be in
31 accordance with subdivisions (b) and (c) of Section 32020.

32 ~~(d)~~

33 (4) The three handgun samples shall be tested only once for
34 reinstatement. If the sample fails it may not be retested.

35 ~~(e)~~

36 (5) If the handgun model successfully passes testing for
37 reinstatement, and if the manufacturer of the handgun is otherwise
38 in compliance with Sections 31900 to 32110, inclusive, the
39 Attorney General shall reinstate the handgun model on the roster
40 maintained pursuant to subdivision (a) of Section 32015.

1 ~~(f)~~
2 (6) The manufacturer shall provide the Attorney General with
3 the complete testing history for the handgun model.

4 ~~(g)~~
5 (7) Notwithstanding subdivision (a) of Section 32020, the
6 Attorney General may, at any time, further retest any handgun
7 model that has been reinstated to the roster.

8 (b) (1) *A handgun model removed from the roster for any reason*
9 *not specified in subdivision (d) of Section 32020, including, but*
10 *not limited to, a failure to pay the annual fee specified in Section*
11 *32015, may be reinstated on the roster if all of the following are*
12 *met:*

13 (A) *The manufacturer petitions the Attorney General for*
14 *reinstatement of the handgun model.*

15 (B) *The testing is conducted in the same manner as the testing*
16 *prescribed in Sections 31900 and 31905.*

17 (C) *The manufacturer provides the Attorney General with the*
18 *complete testing history of the handgun model.*

19 (2) *A handgun model reinstated pursuant to this subdivision*
20 *shall only be required to meet the definitional requirements of*
21 *Section 31910 to avoid being considered an “unsafe handgun” as*
22 *of the date the handgun model was originally submitted for testing*
23 *before it was removed from the roster.*

24 (3) *If the handgun successfully passes testing for reinstatement,*
25 *the Attorney General shall reinstate the handgun model on the*
26 *roster maintained pursuant to subdivision (a) of Section 32015.*

27 SEC. 3. *Section 32030 of the Penal Code is amended to read:*

28 32030. (a) (1) A firearm shall be deemed to satisfy the
29 requirements of subdivision (a) of Section 32015 if another firearm
30 made by the same manufacturer is already listed and the unlisted
31 firearm differs from the listed firearm only in one or more of the
32 following features:

33 ~~(1)~~

34 (A) Finish, including, but not limited to, bluing, chrome-plating,
35 oiling, or engraving.

36 ~~(2)~~

37 (B) The material from which the grips are made.

38 ~~(3)~~

39 (C) The shape or texture of the grips, so long as the difference
40 in grip shape or texture does not in any way alter the dimensions,

1 material, linkage, or functioning of the magazine well, the barrel,
2 the chamber, or any of the components of the firing mechanism
3 of the firearm.

4 ~~(4)~~

5 (D) Any other purely cosmetic feature that does not in any way
6 alter the dimensions, material, linkage, or functioning of the
7 magazine well, the barrel, the chamber, or any of the components
8 of the firing mechanism of the firearm.

9 ~~(b)~~

10 (2) Any manufacturer seeking to have a firearm listed under
11 this ~~section~~ *subdivision* shall provide to the Department of Justice
12 all of the following:

13 ~~(1)~~

14 (A) The model designation of the listed firearm.

15 ~~(2)~~

16 (B) The model designation of each firearm that the manufacturer
17 seeks to have listed under this ~~section~~ *subdivision*.

18 ~~(3)~~

19 (C) A statement, under oath, that each unlisted firearm for which
20 listing is sought differs from the listed firearm only in one or more
21 of the ways identified in *paragraph (1) of subdivision (a)* and is
22 in all other respects identical to the listed firearm.

23 ~~(e)~~

24 (3) The department may, in its discretion and at any time, require
25 a manufacturer to provide to the department any model for which
26 listing is sought under this section, to determine whether the model
27 complies with the requirements of this section.

28 (b) (1) *Notwithstanding subdivision (a), a firearm shall be*
29 *deemed to satisfy the requirements of subdivision (a) of Section*
30 *32015 if another firearm made by the same manufacturer is already*
31 *listed and the unlisted firearm meets all of the following*
32 *requirements:*

33 (A) *The firearm possesses the same make and model designation*
34 *as the listed firearm.*

35 (B) *The firearm is of the same caliber and has the same barrel*
36 *length as the listed firearm.*

37 (C) *The firearm is identical to the listed firearm except as*
38 *follows:*

39 (i) *A part of the firearm has been redesigned so that it does not*
40 *have the same dimensions as the previous part.*

1 (ii) A part of the firearm is made using a different manufacturing
2 technique than a previous part.

3 (iii) A part of the firearm is made out of a different material
4 than a previous part.

5 (iv) The firearm includes any other noncosmetic change not
6 specified in subdivision (a).

7 (2) A manufacturer seeking to have a firearm deemed to satisfy
8 the requirements of subdivision (a) of Section 32015 pursuant to
9 this subdivision shall provide the Department of Justice with a
10 declaration, under oath, stating the nature of the difference
11 described in subparagraph (C) of paragraph (1) and that the
12 firearm differs from the previous version only in the manner
13 specified. Only one declaration may be submitted per change.

14 (3) The department may, in its discretion and at any time,
15 require a manufacturer to provide to the department any model
16 for which listing is sought under this subdivision, to determine
17 whether the model complies with the requirements of this
18 subdivision. The department may, in its discretion and at any time,
19 subject any model submitted pursuant to this paragraph to retesting
20 pursuant to Section 32020. If the handgun model fails retesting,
21 the Attorney General shall remove the handgun model from the
22 roster maintained pursuant to subdivision (a) of Section 32015. If
23 a handgun is removed from the roster pursuant to this paragraph,
24 it may be reinstated pursuant to Section 32025.

25 (4) In addition to the other provisions of this subdivision, a
26 manufacturer of a firearm that has already been modified as
27 specified in paragraph (1) as of January 1, 2015, is not in violation
28 of Section 32000 if the manufacturer complies with the
29 requirements of this section and submits the firearm to be tested
30 pursuant to Sections 31900 and 31905 no later than March 31,
31 2015.

32 (5) A firearm deemed to satisfy the requirements of subdivision
33 (a) of Section 32015 pursuant to this subdivision shall only be
34 required to meet the definitional requirements of Section 31910
35 to avoid being considered an “unsafe handgun” as of the date the
36 similar listed firearm was originally submitted for testing.

37 SEC. 4. Section 32110 of the Penal Code is amended to read:
38 32110. Article 4 (commencing with Section 31900) and Article
39 5 (commencing with Section 32000) shall not apply to any of the
40 following:

- 1 (a) The sale, loan, or transfer of any firearm pursuant to Chapter
2 5 (commencing with Section 28050) of Division 6 in order to
3 comply with Section 27545.
- 4 (b) The sale, loan, or transfer of any firearm that is exempt from
5 the provisions of Section 27545 pursuant to any applicable
6 exemption contained in Article 2 (commencing with Section 27600)
7 or Article 6 (commencing with Section 27850) of Chapter 4 of
8 Division 6, if the sale, loan, or transfer complies with the
9 requirements of that applicable exemption to Section 27545.
- 10 (c) The sale, loan, or transfer of any firearm as described in
11 paragraph (3) of subdivision (b) of Section 32000.
- 12 (d) The delivery of a pistol, revolver, or other firearm capable
13 of being concealed upon the person to a person licensed pursuant
14 to Sections 26700 to 26915, inclusive, for the purposes of the
15 service or repair of that firearm.
- 16 (e) The return of a pistol, revolver, or other firearm capable of
17 being concealed upon the person by a person licensed pursuant to
18 Sections 26700 to 26915, inclusive, to its owner where that firearm
19 was initially delivered in the circumstances set forth in subdivision
20 (a), (d), (f), or (i).
- 21 (f) The delivery of a pistol, revolver, or other firearm capable
22 of being concealed upon the person to a person licensed pursuant
23 to Sections 26700 to 26915, inclusive, for the purpose of a
24 consignment sale or as collateral for a pawnbroker loan.
- 25 (g) The sale, loan, or transfer of any pistol, revolver, or other
26 firearm capable of being concealed upon the person listed as a
27 curio or relic, as defined in Section 478.11 of Title 27 of the Code
28 of Federal Regulations.
- 29 (h) The sale, loan, or transfer of any semiautomatic pistol that
30 is to be used solely as a prop during the course of a motion picture,
31 television, or video production by an authorized participant therein
32 in the course of making that production or event or by an authorized
33 employee or agent of the entity producing that production or event.
- 34 (i) The delivery of a pistol, revolver, or other firearm capable
35 of being concealed upon the person to a person licensed pursuant
36 to Sections 26700 to 26915, inclusive, where the firearm is being
37 loaned by the licensee to a consultant-evaluator.
- 38 (j) The delivery of a pistol, revolver, or other firearm capable
39 of being concealed upon the person by a person licensed pursuant

1 to Sections 26700 to 26915, inclusive, where the firearm is being
2 loaned by the licensee to a consultant-evaluator.

3 (k) The return of a pistol, revolver, or other firearm capable of
4 being concealed upon the person to a person licensed pursuant to
5 Sections 26700 to 26915, inclusive, where it was initially delivered
6 pursuant to subdivision (j).

7 (l) *The sale, loan, or transfer of any pistol, revolver, or other*
8 *firearm capable of being concealed upon the person by a person*
9 *licensed pursuant to Sections 26700 to 26915, inclusive, if all of*
10 *the following requirements are met:*

11 (1) *The licensee is in lawful possession of the firearm.*

12 (2) *The firearm was previously listed on the roster pursuant to*
13 *Section 32015, but was removed from the roster for any reason*
14 *not specified in Section 32020.*

15 (3) *The licensee possessed the firearm within this state for*
16 *purposes of sale before the firearm was removed from the roster.*

17 (4) *The licensee notified the department, on a form provided by*
18 *the department, of the number of firearms meeting the criteria of*
19 *paragraphs (1) to (3), inclusive, within 30 days of the firearm*
20 *being removed from the roster.*

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

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, March 19, 2014. (JR11)**