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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1135

Introduced by Assembly Members Levine and Ting

(Principal coauthor: Assembly Member Chiu)

(Principal coauthors: Senators Glazer and Hall)

(Coauthors: Assembly Members Cristina Garcia and Nazarian)

(Coauthor: Senator Leno)

February 27, 2015

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

AB 1135, as amended, Levine. 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 *several* specified attributes, including, for rifles, a thumbhole stock, and for pistols, a 2nd handgrip.

This bill would revise this definition of "assault weapon" to mean a semiautomatic centerfire ~~rifle~~, *rifle* or a semiautomatic pistol that does

not have a fixed magazine but has any one of those specified attributes. The 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 an assault weapon, except as otherwise provided, be punished as a felony or for a period not to exceed one year in a county jail.

This bill would exempt from punishment under that provision a person who possessed an assault weapon prior to January 1, 2017, 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, 2016, 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 with the Department of Justice before January 1, 2018, but not before the effective date of specified regulations. The 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. The bill would also require registrations to be submitted electronically via the Internet utilizing a public-facing application made available by the department.

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 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, for purposes of the registration program. The bill would require the department to adopt regulations for the purpose of implementing those provisions and would exempt those regulations from the Administrative Procedure Act. The 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:

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

3 (B) A second handgrip.

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

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

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

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

13 (A) A folding or telescoping stock.

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

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

18 (8) Any shotgun with a revolving cylinder.

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

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

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

34 (1) Any antique firearm.

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

38	MANUFACTURER	MODEL	CALIBER
39	BENELLI	MP90	.22LR
40			

1	BENELLI	MP90	.32 S&W LONG
2	BENELLI	MP95	.22LR
3	BENELLI	MP95	.32 S&W LONG
4	HAMMERLI	280	.22LR
5	HAMMERLI	280	.32 S&W LONG
6	HAMMERLI	SP20	.22LR
7	HAMMERLI	SP20	.32 S&W LONG
8	PARDINI	GPO	.22 SHORT
9	PARDINI	GP-SCHUMANN	.22 SHORT
10	PARDINI	HP	.32 S&W LONG
11	PARDINI	MP	.32 S&W LONG
12	PARDINI	SP	.22LR
13	PARDINI	SPE	.22LR
14	WALTHER	GSP	.22LR
15	WALTHER	GSP	.32 S&W LONG
16	WALTHER	OSP	.22 SHORT
17	WALTHER	OSP-2000	.22 SHORT

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

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

29 30680. ~~Notwithstanding the meaning of “assault weapon” under~~
30 ~~Section 30515, as amended by the act that added this section,~~
31 Section 30605 does not apply to the possession of an assault
32 weapon by a person who has possessed the assault weapon prior
33 to January 1, 2017, if all of the following are applicable:

34 (a) Prior to January 1, 2017, the person ~~was~~ *would have been*
35 eligible to register that assault weapon pursuant to subdivision ~~(e)~~
36 *(b)* of Section 30900.

37 (b) The person lawfully possessed that assault weapon prior to
38 January 1, 2017.

39 (c) The person registers the assault weapon by January 1, 2018,
40 in accordance with subdivision (b) of Section 30900.

1 SEC. 3. Section 30900 of the Penal Code is amended to read:
2 30900. (a) (1) Any person who, prior to June 1, 1989, lawfully
3 possessed an assault weapon, as defined in former Section 12276,
4 as added by Section 3 of Chapter 19 of the Statutes of 1989, shall
5 register the firearm by January 1, 1991, and any person who
6 lawfully possessed an assault weapon prior to the date it was
7 specified as an assault weapon pursuant to former Section 12276.5,
8 as added by Section 3 of Chapter 19 of the Statutes of 1989 or as
9 amended by Section 1 of Chapter 874 of the Statutes of 1990 or
10 Section 3 of Chapter 954 of the Statutes of 1991, shall register the
11 firearm within 90 days with the Department of Justice pursuant to
12 those procedures that the department may establish.

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

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

28 (4) The department may charge a fee for registration of up to
29 twenty dollars (\$20) per person but not to exceed the reasonable
30 processing costs of the department. After the department establishes
31 fees sufficient to reimburse the department for processing costs,
32 fees charged shall increase at a rate not to exceed the legislatively
33 approved annual cost-of-living adjustment for the department's
34 budget or as otherwise increased through the Budget Act but not
35 to exceed the reasonable costs of the department. The fees shall
36 be deposited into the Dealers' Record of Sale Special Account.

37 (b) (1) Any person who, from January 1, 2001, to December
38 31, 2016, inclusive, lawfully possessed an assault weapon that
39 does not have a fixed magazine, as defined in Section 30515,
40 including those weapons with an ammunition feeding device that

1 can be readily removed from the firearm with the use of a tool,
2 shall register the firearm before January 1, 2018, but not before
3 the effective date of the regulations adopted pursuant to paragraph
4 (5), with the department pursuant to those procedures that the
5 department may establish by regulation pursuant to paragraph (5).

6 (2) Registrations shall be submitted electronically via the
7 Internet utilizing a public-facing application made available by
8 the department.

9 (3) The registration shall contain a description of the firearm
10 that identifies it uniquely, including all identification marks, the
11 date the firearm was acquired, the name and address of the
12 individual from whom, or business from which, the firearm was
13 acquired, as well as the registrant's full name, address, telephone
14 number, date of birth, sex, height, weight, eye color, hair color,
15 and California driver's license number or California identification
16 card number.

17 (4) The department may charge a fee in an amount of up to
18 fifteen dollars (\$15) per person but not to exceed the reasonable
19 processing costs of the department. The fee shall be paid by debit
20 or credit card at the time that the electronic registration is submitted
21 to the department. The fee shall be deposited in the Dealers' Record
22 of Sale Special Account to be used for purposes of this section.

23 (5) The department shall adopt regulations for the purpose of
24 implementing this subdivision. These regulations are exempt from
25 the Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code).

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

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