

ASSEMBLY BILL

No. 1695

Introduced by Assembly Member Bonta

January 21, 2016

An act to amend Sections 16520 and 29805 of, and to add Sections 29305 and 29310 to, the Penal Code, relating to firearms, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1695, as introduced, Bonta. Firearms: notice to purchasers: false reports of stolen firearms.

(1) Existing law requires each sheriff or police chief executive to submit descriptions of serialized property, or nonserialized property that has been uniquely inscribed, which has been reported stolen, lost, or found directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property. Existing law requires that information about a firearm entered into the automated system for firearms remain in the system until the reported firearm has been found. Existing law requires the Department of Justice to implement an electronic system to receive comprehensive tracing information from each local law enforcement agency and to forward the information to the National Tracing Center.

This bill would make it a misdemeanor to report to a local law enforcement agency that a firearm has been lost or stolen, knowing that report to be false. The bill would also make it a misdemeanor for a person convicted of violating this provision to own a firearm within 10 years of the conviction. The bill would define “firearm” for these purposes to include the frame or receiver of the weapon, and to include a rocket, rocket propelled projectile launcher, or similar device

containing an explosive or incendiary material. By creating new crimes, this bill would impose a state-mandated local program.

(2) Existing law requires the Department of Justice to develop a pamphlet that summarizes California firearms laws, and to offer copies of the pamphlet to firearms dealers for sale to retail purchasers or transferees of firearms.

This bill would require the Attorney General to send a letter notice to each individual who has applied to purchase a firearm informing him or her of laws relating to firearms, gun trafficking, and safe storage, as provided. The bill would allow the Department of Justice to use funds in the Firearms Safety and Enforcement Special Fund, which is continuously appropriated, to pay for the cost of administering this provision, thereby making an appropriation.

(3) 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 16520 of the Penal Code is amended to
- 2 read:
- 3 16520. (a) As used in this part, “firearm” means a device,
- 4 designed to be used as a weapon, from which is expelled through
- 5 a barrel, a projectile by the force of an explosion or other form of
- 6 combustion.
- 7 (b) As used in the following provisions, “firearm” includes the
- 8 frame or receiver of the weapon:
- 9 (1) Section 16550.
- 10 (2) Section 16730.
- 11 (3) Section 16960.
- 12 (4) Section 16990.
- 13 (5) Section 17070.
- 14 (6) Section 17310.
- 15 (7) Sections 26500 to 26588, inclusive.
- 16 (8) Sections 26600 to 27140, inclusive.
- 17 (9) Sections 27400 to 28000, inclusive.

- 1 (10) Section 28100.
- 2 (11) Sections 28400 to 28415, inclusive.
- 3 (12) Sections 29010 to 29150, inclusive.
- 4 (13) *Section 29305.*
- 5 ~~(13)~~
- 6 (14) Sections 29610 to 29750, inclusive.
- 7 ~~(14)~~
- 8 (15) Sections 29800 to 29905, inclusive.
- 9 ~~(15)~~
- 10 (16) Sections 30150 to 30165, inclusive.
- 11 ~~(16)~~
- 12 (17) Section 31615.
- 13 ~~(17)~~
- 14 (18) Sections 31705 to 31830, inclusive.
- 15 ~~(18)~~
- 16 (19) Sections 34355 to 34370, inclusive.
- 17 ~~(19)~~
- 18 (20) Sections 8100, 8101, and 8103 of the Welfare and
- 19 Institutions Code.
- 20 (c) As used in the following provisions, “firearm” also includes
- 21 a rocket, rocket propelled projectile launcher, or similar device
- 22 containing an explosive or incendiary material, whether or not the
- 23 device is designed for emergency or distress signaling purposes:
- 24 (1) Section 16750.
- 25 (2) Subdivision (b) of Section 16840.
- 26 (3) Section 25400.
- 27 (4) Sections 25850 to 26025, inclusive.
- 28 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 29 (6) Sections 26035 to 26055, inclusive.
- 30 (d) As used in the following provisions, “firearm” does not
- 31 include an unloaded antique firearm:
- 32 (1) Subdivisions (a) and (c) of Section 16730.
- 33 (2) Section 16550.
- 34 (3) Section 16960.
- 35 (4) Section 17310.
- 36 (5) *Section 25135.*
- 37 ~~(5)~~
- 38 (6) Chapter 6 (commencing with Section 26350) of Division 5
- 39 of Title 4.
- 40 ~~(6)~~

1 (7) Chapter 7 (commencing with Section 26400) of Division 5
2 of Title 4.

3 ~~(7)~~

4 (8) Sections 26500 to 26588, inclusive.

5 ~~(8)~~

6 (9) Sections 26700 to 26915, inclusive.

7 ~~(9)~~

8 (10) Section 27510.

9 ~~(10)~~

10 (11) Section 27530.

11 ~~(11)~~

12 (12) Section 27540.

13 ~~(12)~~

14 (13) Section 27545.

15 ~~(13)~~

16 (14) Sections 27555 to 27585, inclusive.

17 ~~(14)~~

18 (15) Sections 29010 to 29150, inclusive.

19 ~~(15) Section 25135.~~

20 (16) Section 29305.

21 (e) As used in Sections 34005 and 34010, “firearm” does not
22 include a destructive device.

23 (f) As used in Sections 17280 and 24680, “firearm” has the
24 same meaning as in Section 922 of Title 18 of the United States
25 Code.

26 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
27 includes the unfinished frame or receiver of a weapon that can be
28 readily converted to the functional condition of a finished frame
29 or receiver.

30 SEC. 2. Section 29305 is added to the Penal Code, to read:

31 29305. It is unlawful to report to a local law enforcement
32 agency that a firearm has been lost or stolen, knowing the report
33 to be false. A violation of this section is a misdemeanor.

34 SEC. 3. Section 29310 is added to the Penal Code, to read:

35 29310. (a) Within 10 days of submission of any application
36 to purchase a firearm, as defined in Section 16190, including
37 circumstances in which the waiting period described in Sections
38 26815 and 27540 does not apply, the Attorney General shall send
39 a notice to the individual who made the application, informing

1 him or her of laws relating to firearms, gun trafficking, and safe
2 storage.

3 (b) The notice shall include all of the following:

4 (1) California law generally requires that all firearms transfers
5 be conducted through licensed dealers as provided in Section
6 27545.

7 (2) Any exceptions to the requirement that firearms transfers
8 be conducted through a dealer have strict limitations.

9 (3) California law has strict limitations on the loaning of
10 firearms, and on the conditions and circumstances under which a
11 firearm may be loaned to another person.

12 (4) California law prohibits any person, corporation, or dealer
13 from selling, loaning, or transferring a firearm to anyone who is
14 not the actual purchaser or transferee of the firearm as provided
15 in Section 27515.

16 (5) Storage of a firearm where children are likely to gain access
17 is a criminal offense if the child obtains access and thereby causes
18 death or injury.

19 (6) It is a felony under both state and federal law, punishable
20 by imprisonment in state or federal prison, to acquire a firearm for
21 another person who is prohibited by law from purchasing the
22 firearm himself or herself. These transactions are sometimes known
23 as a “straw purchase” or “straw acquisition.”

24 (7) Cases in which a firearm is found in the possession of a
25 person other than the registered owner are fully investigated, and
26 in cases where violations are discovered, they are prosecuted to
27 the fullest extent of the law by both state and federal authorities.

28 (c) The notice shall also contain information about how to obtain
29 additional information from the Department of Justice, including
30 the department’s Internet Web site.

31 (d) The notice shall also include a link to a page on the
32 Department of Justice’s Internet Web site containing a summary
33 of state firearm laws, which the department shall prepare and
34 annually update.

35 (e) The Department of Justice is authorized to use funds in the
36 Firearms Safety and Enforcement Special Fund to pay for the cost
37 of administering this section.

38 SEC. 4. Section 29805 of the Penal Code is amended to read:

39 29805. (a) Except as provided in Section 29855 or subdivision
40 (a) of Section 29800, any person who has been convicted of a

1 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
2 subdivision (d) of Section 148, Section 171b, paragraph (1) of
3 subdivision (a) of Section 171c, *Section* 171d, 186.28, 240, 241,
4 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417,
5 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former
6 Section 12100, as that section read at any time from when it was
7 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
8 when it was repealed by Section 18 of Chapter 23 of the Statutes
9 of 1994, Section 17500, 17510, 25300, 25800, 29305, 30315, or
10 32625, subdivision (b) or (d) of Section 26100, or Section 27510,
11 or Section 8100, 8101, or 8103 of the Welfare and Institutions
12 Code, any firearm-related offense pursuant to Sections 871.5 and
13 1001.5 of the Welfare and Institutions Code, or of the conduct
14 punished in subdivision (c) of Section 27590, and who, within 10
15 years of the conviction, owns, purchases, receives, or has in
16 possession or under custody or control, any firearm is guilty of a
17 public offense, which shall be punishable by imprisonment in a
18 county jail not exceeding one year or in the state prison, by a fine
19 not exceeding one thousand dollars (\$1,000), or by both that
20 imprisonment and fine. ~~The~~

21 (b) *The* court, on forms prescribed by the Department of Justice,
22 shall notify the department of persons subject to this section.
23 However, the prohibition in this section may be reduced,
24 eliminated, or conditioned as provided in Section 29855 or 29860.

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