

Assembly Bill No. 1798

CHAPTER 198

An act to amend Section 16700 of the Penal Code, relating to firearms.

[Approved by Governor August 26, 2016. Filed with
Secretary of State August 26, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1798, Cooper. Firearms: imitation firearms: gun-shaped phone cases.

Existing federal law prohibits a person from manufacturing, entering into commerce, shipping, transporting, or receiving any toy, look-alike, or imitation firearm unless the firearm contains, or has affixed to it, a marking approved by the federal Secretary of Commerce.

Existing state law defines "imitation firearm" as any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm. Under existing law, a manufacturer, importer, or distributor of imitation firearms that, among other things, fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike, or imitation firearm, as defined by federal law or regulation, is guilty of a misdemeanor.

This bill would specify that the definition of imitation firearm described above includes, but is not limited to, a protective case for a cellular telephone that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

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

SECTION 1. Section 16700 of the Penal Code is amended to read:

16700. (a) (1) As used in this part, "imitation firearm" means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

(2) "Imitation firearm" also includes, but is not limited to, a protective case for a cellular telephone that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the case is a firearm.

(b) As used in Section 20165, "imitation firearm" does not include any of the following:

(1) A nonfiring collector's replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A spot marker gun which expels a projectile that is greater than 10mm caliber.

(3) A BB device that expels a projectile, such as a BB or pellet, that is other than 6mm or 8mm caliber.

(4) A BB device that is an airsoft gun that expels a projectile, such as a BB or pellet, that is 6mm or 8mm caliber which meets the following:

(A) If the airsoft gun is configured as a handgun, in addition to the blaze orange ring on the barrel required by federal law, the airsoft gun has a trigger guard that has fluorescent coloration over the entire guard, and there is a two centimeter wide adhesive band around the circumference of the protruding pistol grip that has fluorescent coloration.

(B) If the airsoft gun is configured as a rifle or long gun, in addition to the blaze orange ring on the barrel required by federal law, the airsoft gun has a trigger guard that has fluorescent coloration over the entire guard, and there is a two centimeter wide adhesive band with fluorescent coloring around the circumference of any two of the following:

(i) The protruding pistol grip.

(ii) The buttstock.

(iii) A protruding ammunition magazine or clip.

(5) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents.

(c) The adhesive bands described in paragraph (4) of subdivision (b) shall be applied in a manner not intended for removal, and shall be in place on the airsoft gun prior to sale to a customer.