

Introduced by Senator NielsenFebruary 27, 2015

An act to add Section 12022.52 to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 714, as introduced, Nielsen. Firearms.

Under existing law it is a felony for any person who has been convicted of a felony to own or possess a firearm. Existing law, subject to exceptions, makes it an offense to carry a concealed firearm, or a loaded firearm in a public place, as specified, punishable as a misdemeanor, or based on prior criminal history and other circumstances, as a felony. Existing law makes it a felony or a misdemeanor to carry a loaded firearm with the intent to commit a felony. Existing law makes it a misdemeanor to openly carry an unloaded handgun in a public place, as specified.

This bill would impose an additional and consecutive term of 10 years in state prison upon a person who was prohibited from possessing a firearm because of a previous felony conviction, and who is convicted of carrying a concealed weapon, carry a loaded firearm in a public place, carrying a loaded firearm with the intent to commit a felony, or openly carrying an unloaded firearm in a public place, if the offender has specified prior convictions or if at the time of the violation the offender was on supervised release, free on bail, awaiting sentencing, or subject to a felony arrest warrant, was in felonious possession of a controlled substance, or assaulted or battered a peace officer by means other than a firearm. The bill would limit the prison credits that may be awarded to a person sentenced pursuant to these provisions to not exceed 15%

of the total term of imprisonment imposed and would require the entire term of imprisonment to be served in the state prison.

By increasing the punishment for a existing crimes, this bill would impose 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.

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 12022.52 is added to the Penal Code, to
 2 read:
 3 12022.52. (a) Notwithstanding any other law, a person
 4 prohibited from possessing a firearm because of a previous felony
 5 conviction, upon conviction for a violation of Section 25400,
 6 25800, 25850, or 26350, shall be punished by an additional and
 7 consecutive term of 10 years in the state prison if any of the
 8 following circumstances are pled and proven:
 9 (1) The offender was previously convicted of any one of the
 10 following:
 11 (A) Felonious possession of a firearm.
 12 (B) Felonious manufacture, sale, possession for sale, or transport
 13 of a controlled substance.
 14 (C) Felonious assault or battery of a peace officer.
 15 (D) A violent felony.
 16 (E) A felony gang offense that constitutes a violation of Section
 17 186.22.
 18 (2) If, at the time of the offense that resulted in conviction for
 19 violation of Section 25400, 25800, 25850, or 26350, any of the
 20 following is applicable:
 21 (A) The offender was on parole, probation, mandatory
 22 supervision pursuant to paragraph (5) of subdivision (h) of Section
 23 1170, or postrelease community supervision, free on bail, awaiting
 24 sentencing, or subject to a felony arrest warrant of which the
 25 defendent was aware.

1 (B) The offender was in felonious possession of a controlled
2 substance.

3 (C) The offender feloniously assaulted or battered a peace officer
4 by means other than a firearm.

5 (b) A person sentenced to a term of imprisonment pursuant to
6 this section shall not be awarded credits that exceed those as
7 specified in subdivision (i) of Section 12022.53.

8 (c) If the imposition of an enhanced penalty authorized by this
9 section would constitute an impermissible dual use of facts, the
10 provisions shall be applied so as to maximize the sentence.

11 (d) A person sentenced pursuant to this section shall serve the
12 entire term of his or her imprisonment for the underlying offense
13 as well as the additional term imposed pursuant to this section in
14 the state prison.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.