

ASSEMBLY BILL

No. 2188

**Introduced by Assembly Members Scott, Alquist, Aroner,
Cedillo, Keeley, Knox, Kuehl, Lempert, Ortiz, and
Villaraigosa**

(Coauthors: Senators Alpert and Watson)

February 19, 1998

An act to add Article 4.5 (commencing with Section 12085) to Chapter 1 of Title 2 of Part 4 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2188, as introduced, Scott. Firearms: certificate of eligibility to manufacture firearms.

(1) Existing law generally regulates the transfer and possession of firearms.

This bill would require the Department of Justice, on or before January 31, 1999, to establish a certificate of eligibility to manufacture firearms. The bill would require every firearm manufacturer to acquire a certificate by March 1, 1999, in order to manufacture firearms in this state. The bill also would require firearm manufacturers to report by telephone to certain agencies within a specified timeframe whenever a manufactured firearm is discovered to be stolen or missing from a firearm manufacturing establishment. The bill would require every firearm manufacturer to acquire a criminal background check by the Department of Justice for all prospective and existing employees, and would prohibit any employee who has been convicted of a felony offense from

coming into contact with any firearm. The bill would also require all manufactured firearms and firearm components to be stored in a secure facility that satisfies specified requirements. The bill would require each firearm manufacturer to record the type, model, caliber or gauge, and serial number of each firearm manufactured or otherwise acquired, and the date of the manufacture or acquisition within 24 hours of the manufacture or acquisition, and to permanently maintain these records.

The bill would provide that any violation of these provisions shall constitute negligence per se in any action brought by the victim of a crime committed with a firearm that was stolen at a time when the firearm manufacturer was not in compliance with the requirements of these provisions. The bill would authorize the Department of Justice to inspect any firearm manufacturing facility to ensure compliance with these provisions, and would require every firearm manufacturer to allow designated persons to inspect facilities and records to ensure compliance with these requirements during business hours.

The bill would provide that any violation of any of these provisions is a misdemeanor, and subjects a firearm manufacturer to becoming ineligible to manufacture firearms in this state. By creating new crimes, the bill would impose a state-mandated local program.

(2) Existing law makes it a felony to change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice on any pistol, revolver, or any other firearm, except as specified. Existing law provides that possession of any pistol or revolver upon which the name of the maker, model, manufacturer's number or other mark of identification has been changed, altered, removed, or obliterated, shall be presumptive evidence that the possessor has changed, altered, removed, or obliterated the same.

This bill would require each firearm manufactured in this state to be identified with a unique serial number stamped onto both the inside and outside of the receiver of the firearm utilizing the method of compression stamping within 24 hours



of the time the receiver or frame is manufactured. The bill would require each firearm imported for sale into this state, commencing January 1, 2004, to be identified with a unique serial number stamped onto both the inside and outside of the receiver of the firearm utilizing the method of compression stamping. The bill would provide that any violation of these provisions is a misdemeanor, and subjects a firearm manufacturer to becoming ineligible to manufacture firearms in this state. By creating new crimes, the bill would impose a state-mandated local program.

(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: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Article 4.5 (commencing with Section
2 12085) is added to Chapter 1 of Title 2 of Part 4 of the
3 Penal Code, to read:

4
5 Article 4.5. Certificate of Eligibility to Manufacture
6 Firearms

7
8 12085. For the purposes of this article, all of the
9 following apply:

10 (a) An unfinished frame or receiver that can be
11 readily converted to a functional condition is considered
12 to be a firearm.

13 (b) "Department" means the Department of Justice.

14 (c) "Certificate" or "certificate of eligibility" means a
15 certificate of eligibility to manufacture firearms issued
16 pursuant to Section 12085.5.

17 12085.5. (a) On or before January 31, 1999, the
18 department shall establish a certificate of eligibility to
19 manufacture firearms. Every firearm manufacturer shall



1 acquire a certificate in order to manufacture firearms in
 2 this state. The certificate shall be renewed annually. The
 3 department shall adopt regulations to administer the
 4 certificate of eligibility program, and may recover the full
 5 costs of administering the program by imposing fees on
 6 applicants for certificates. A certificate may be issued
 7 only to a person or entity that is licensed as a
 8 manufacturer of firearms pursuant to Chapter 44
 9 (commencing with Section 921) of Title 18 of the United
 10 States Code, and that presents a copy of the valid federal
 11 firearm manufacturer license to the department.

12 (b) Commencing March 1, 1999, no person or entity
 13 shall manufacture a firearm in this state without a
 14 certificate of eligibility issued by the department.

15 (c) The certificate or a copy thereof shall be displayed
 16 on the manufacturing premises where it can easily be
 17 seen. Manufacturers shall forward a copy of the
 18 certificate to the local police department, the county
 19 sheriff’s office, and the California Highway Patrol within
 20 seven business days of receipt from the department.

21 (d) Any person or entity that manufactures a firearm
 22 without a certificate of eligibility issued by the
 23 department is guilty of a misdemeanor and shall be
 24 punished by a fine of one thousand dollars (\$1,000). On
 25 the second violation of this section, the person or entity
 26 shall be ineligible to manufacture firearms for 60 days and
 27 shall be punished by a fine of one thousand dollars
 28 (\$1,000) per firearm manufactured. On the third
 29 violation of this section, the person or entity shall become
 30 permanently ineligible to manufacture firearms.

31 12086. (a) Whenever a manufactured firearm is
 32 discovered to be stolen or missing from a firearm
 33 manufacturing establishment, the firearm manufacturer
 34 shall report the loss by telephone within 24 hours, or the
 35 morning of the next business day, whichever is earliest, to
 36 each of the following agencies:

- 37 (1) The local police department.
- 38 (2) The county sheriff’s office.
- 39 (3) The California Highway Patrol.
- 40 (4) The Department of Justice.



1 (5) The Bureau of Alcohol, Tobacco, and Firearms.

2 (b) The report required pursuant to subdivision (a)
3 shall include the firearm's serial number, caliber or
4 gauge, name of manufacturer, city and state of
5 manufacture, and place of loss. A record of the loss of
6 goods telephone report to each agency, including with
7 whom the manufacturer spoke, shall be maintained and
8 kept for a period of no less than 10 years. Within 48 hours
9 of the loss, the manufacturer also shall forward a copy of
10 the federal Firearms Licensee Theft/Loss Report (ATF
11 Form 3310.11) to each of the agencies specified in
12 subdivision (a).

13 (c) Any violation of this section is a misdemeanor
14 punishable by a fine of one thousand dollars (\$1,000). On
15 the second violation of this section, a firearm
16 manufacturer shall be ineligible to manufacture firearms
17 for 60 days and shall be punished by a fine of one thousand
18 dollars (\$1,000) per firearm manufactured. On the third
19 violation of this section, a firearm manufacturer shall
20 become permanently ineligible to manufacture firearms.

21 12086.5. (a) Every firearm manufacturer shall
22 acquire, at its own expense, a criminal background check
23 by the department for all prospective employees prior to
24 each employee's first day of service. Any person who has
25 been convicted of a felony offense shall not come into
26 contact with any firearm.

27 (b) On or before July 1, 1999, every existing firearm
28 manufacturer shall acquire, at its own expense, a criminal
29 background check by the department for all existing
30 employees. Thereafter, no firearm manufacturer,
31 including an out-of-state manufacture with existing
32 employees, may commence to manufacture firearms in
33 California without having acquired, at its own expense, a
34 criminal background check by the department for all
35 employees, whether existing or prospective. Any
36 employee who has been convicted of a felony offense that
37 disqualifies that person from possessing firearms shall not
38 come into contact with any firearm.



1 (c) If at any time an employee is convicted of a felony
2 offense, he or she shall not come into contact with any
3 firearm.

4 (d) Any violation of this section is a misdemeanor
5 punishable by a fine of one thousand dollars (\$1,000). On
6 the second violation of this section, a firearm
7 manufacturer shall be ineligible to manufacture firearms
8 for 60 days. On the third violation of this section, a firearm
9 manufacturer shall become permanently ineligible to
10 manufacture firearms.

11 12087. (a) In accordance with any applicable
12 reporting requirements of federal and state law, each
13 firearm manufactured in this state shall be identified with
14 a unique serial number stamped onto the firearm
15 utilizing the method of compression stamping. The serial
16 number shall be stamped onto both the inside and outside
17 of the receiver. The serial number of any firearm
18 manufactured in this state shall be stamped onto the
19 firearm within 24 hours of the time the receiver or frame
20 is manufactured. The same serial number shall not be
21 used for more than one firearm.

22 (b) Commencing January 1, 2004, and in accordance
23 with any applicable reporting requirements of federal
24 and state law, each firearm imported for sale into this
25 state shall be identified with a unique serial number
26 stamped onto the firearm utilizing the method of
27 compression stamping. The serial number shall be
28 stamped onto both the inside and outside of the receiver.
29 The same serial number shall not be used for more than
30 one firearm.

31 (c) Any violation of this section is a misdemeanor
32 punishable by a fine of one thousand dollars (\$1,000). On
33 the second violation of this section, a firearm
34 manufacturer shall be ineligible to manufacture firearms
35 for 60 days and shall be punished by a fine of one thousand
36 dollars (\$1,000) per firearm manufactured. On the third
37 violation of this section, a firearm manufacturer shall
38 become permanently ineligible to manufacture firearms.



1 12087.5. (a) All manufactured firearms and firearm
2 components shall be stored in a secure facility. To be
3 secure, the facility shall satisfy all of the following:

4 (1) The facility is equipped with a burglar alarm with
5 central monitoring.

6 (2) All entries other than doors, including windows
7 and skylights, are secured with steel window guards or an
8 audible, silent, or sonic alarm to detect entry.

9 (3) All perimeter doorways are designed in one of the
10 following ways:

11 (A) A windowless steel security door equipped with
12 both a dead bolt and a doorknob lock.

13 (B) A windowed metal door equipped with both a
14 dead bolt and a doorknob lock. If the window has an
15 opening of five inches or more measured in any direction,
16 the window is covered with steel bars of at least one-half
17 inch diameter or metal grating of at least nine gauge
18 affixed to the exterior or interior of the door.

19 (C) A metal grate that is padlocked and affixed to the
20 licensee's premises independent of the door and
21 doorframe.

22 (D) Hinges and hasps attached to doors by welding,
23 riveting, or bolting with nuts on the inside of the door.

24 (E) Hinges and hasps installed so that they cannot be
25 removed when the doors are closed and locked.

26 (4) Heating, ventilating, air-conditioning, and service
27 openings are secured with steel bars, metal grating, or an
28 alarm system.

29 (5) No metal grates with spaces larger than six inches
30 wide measured in any direction.

31 (6) Steel bars used to satisfy the requirements of this
32 subdivision are no further than six inches apart.

33 (7) At least 10-gauge expanded steel wire mesh
34 utilized along with typical wood frame and drywall
35 construction. If firearms are not stored in a vault, the
36 facility shall use an exterior security-type door along with
37 high security, single-key deadbolt or other door that is
38 more secure. All firearms shall be stored in a separate
39 room away from any general living area or work area. Any



1 door to the storage facility shall be locked while
2 unattended.

3 (8) Perimeter doorways, including the loading dock
4 area, are locked at all times when not attended by paid
5 employees or contracted employees, including security
6 guards.

7 (9) Any ammunition on the premises is removed from
8 all manufactured guns and stored in a separate and locked
9 room, cabinet, or box away from the storage area for the
10 firearms. Ammunition may be stored with a weapon only
11 in a locked safe.

12 (b) This section shall not apply to any firearm
13 manufacturer that produces less than 10 firearms per
14 year. However, all exempt firearm manufacturers shall
15 store all firearms in a locked case.

16 (c) Any violation of this section is a misdemeanor
17 punishable by a fine of one thousand dollars (\$1,000). On
18 the second violation of this section, a firearm
19 manufacturer shall be ineligible to manufacture firearms
20 for 60 days and shall be punished by a fine of one thousand
21 dollars (\$1,000) per firearm manufactured. On the third
22 violation of this section, a firearm manufacturer shall
23 become permanently ineligible to manufacture firearms.

24 12088. (a) Each firearm manufacturer shall record
25 the type, model, caliber or gauge, and serial number of
26 each firearm manufactured or otherwise acquired, and
27 the date of the manufacture or acquisition within 24 hours
28 of the manufacture or acquisition.

29 (b) The records required pursuant to subdivision (a)
30 shall be permanently maintained by each firearm
31 manufacturer.

32 (c) If the firearm manufacturer goes out of business,
33 the records required pursuant to subdivision (a) shall be
34 forwarded to the Department of Justice within three days
35 of closure of business.

36 (d) Any violation of this section is a misdemeanor
37 punishable by a fine of one thousand dollars (\$1,000). On
38 the second violation of this section, a firearm
39 manufacturer shall be ineligible to manufacture firearms
40 for 60 days and shall be punished by a fine of one thousand



1 dollars (\$1,000) per firearm manufactured. On the third
2 violation of this section, a firearm manufacturer shall
3 become permanently ineligible to manufacture firearms.

4 12088.5. Any violation of this article shall constitute
5 negligence per se in any action brought by the victim of
6 a crime committed with a firearm that was stolen at a
7 time when the firearm manufacturer was not in
8 compliance with the requirements of this article.

9 12089. (a) The department may inspect any firearm
10 manufacturing facility to ensure compliance with the
11 requirements of this article. The department may assess
12 annual fees against firearm manufacturers to cover
13 inspection costs. These fees shall be tied to the costs of
14 certificates of eligibility.

15 (b) During business hours, every firearm
16 manufacturer shall allow any peace officer, authorized
17 law enforcement employee, or Department of Justice
18 employee designated by the Attorney General, upon the
19 presentation of proper identification, to inspect facilities
20 and records to ensure compliance with the requirements
21 of this article.

22 (c) Any violation of subdivision (b) is a misdemeanor
23 punishable by a fine of one thousand dollars (\$1,000). On
24 the second violation of subdivision (b), a firearm
25 manufacturer shall be ineligible to manufacture firearms
26 for 60 days and shall be punished by a fine of one thousand
27 dollars (\$1,000) per firearm manufactured. On the third
28 violation of subdivision (b), a firearm manufacturer shall
29 become permanently ineligible to manufacture firearms.

30 SEC. 2. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition
38 of a crime within the meaning of Section 6 of Article
39 XIII B of the California Constitution.



1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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