

ASSEMBLY BILL

No. 106

Introduced by Assembly Members Scott and Aroner

December 22, 1998

An act to add Article 4.5 (commencing with Section 12087) to Chapter 4 of Title 2 of Part 4 of the Penal Code, relating to firearm safety devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 106, as introduced, Scott. Firearms: safety devices.

Existing law generally regulates the transfer and possession of firearms.

This bill would establish the Aroner-Scott Child Gun Accident Prevention Act of 1999 (the act) and would prohibit any person, firm, or corporation from importing firearms unless licensed by the Attorney General.

This bill would require that, effective January 1, 2001, all firearms sold or transferred in this state, or delivered for sale in this state by a licensed manufacturer, licensed importer, or a licensed dealer be accompanied by a child accident prevention device approved by the Attorney General.

This bill would require the Attorney General, not later than January 1, 2000, to begin development of minimum safety standards for child accident prevention devices that are designed to reduce the risk of unintentional injury by firearms.

This bill would require any packaging or other descriptive material that accompanies a firearm sold or transferred in this state, or delivered for sale in this state by any licensed

manufacturer, licensed importer, or licensed California dealer to bear a label with a specified warning. The bill would also require the warning label be affixed to the firearm if the firearm is sold, transferred or delivered in this state without accompanying packaging.

This bill would authorize the Attorney General to recall any firearm or child accident prevention device distributed in this state after January 1, 2001, that does not conform to specified provisions of the act.

This bill would require each licensed manufacturer, licensed importer, or licensed California dealer to report specified information to the Attorney General in connection with unintentional gunshot wounds sustained by children after the effective date of the act.

This bill would provide that any violation of specified provisions of the act would be a misdemeanor punishable by a fine of \$1,000. A second violation of those provisions would be punishable by a fine of \$1,000 and would render a licensed manufacturer, licensed importer, or a licensed California dealer ineligible to manufacture or sell firearms for 30 days in this state. A third violation of those provisions would render a licensed manufacturer, licensed importer, or a licensed California dealer permanently ineligible to manufacture, import, or sell, respectively, firearms in this state.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would declare that the act does not relieve any person from liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance. This bill would also declare that the act does not require or prohibit local ordinances that place more stringent requirements upon firearms manufacturers, importers, or California dealers regarding firearm use-limitation devices or trigger locks.

This bill would declare that the act does not apply to the commerce of certain firearms, as specified.

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 12087) is added to Chapter 4 of Title 2 of Part 4 of the
3 Penal Code, to read:

4
5 Article 4.5. Child Accident Prevention Devices
6

7 12087. This article shall be known and may be cited as
8 the “Aroner-Scott Child Gun Accident Prevention Act of
9 1999.”

10 12087.5. The Legislature makes the following
11 findings:

12 (a) In the last 10 years more than 2,300 American
13 children 14 years of age and younger have died from
14 unintentional shootings. In 1994 alone, 185 children were
15 shot and killed unintentionally. Thus, more than 15
16 children every month, or one child every other day were
17 shot or killed unintentionally in firearms-related
18 incidents.

19 (b) The United States leads the industrialized world in
20 the rates of children and youth lost to unintentional,
21 firearms-related death. A 1997 study from the federal
22 Centers for Disease Control and Prevention reveals that
23 for unintentional firearm-related deaths for children
24 under the age of 15, the rate in the United States was nine
25 times higher than in 25 other industrialized countries
26 combined.

27 (c) While the number of unintentional deaths from
28 firearms is an unacceptable toll on America’s children,
29 nearly eight times that number are treated in U.S.
30 hospital emergency rooms each year for nonfatal
31 unintentional gunshot wounds.



1 (d) A study of unintentional firearm deaths among
2 children in California found that unintentional gunshot
3 wounds most often involve handguns.

4 (e) A study in the December 1995 issue of the Archives
5 of Pediatric and Adolescent Medicine found that children
6 as young as three years old are strong enough to fire most
7 commercially available handguns. The study revealed
8 that 25 percent of three to four year olds and 70 percent
9 of five to six year olds had sufficient finger strength to fire
10 59 (92 percent) of the 64 commonly available handguns
11 referenced in the study.

12 (f) The Government Accounting Office (GAO), in its
13 March 1991 study, "Accidental Shootings: Many Deaths
14 and Injuries Caused by Firearms Could be Prevented,"
15 estimates that 31 percent of accidental deaths caused by
16 firearms might be prevented by the addition of two safety
17 devices: a child-resistant safety device that automatically
18 engages and a device that indicates whether the gun is
19 loaded. According to the study results, of the 107
20 unintentional firearms-related fatalities the GAO
21 examined for the calendar years 1988 and 1989, eight
22 percent could have been prevented had the firearm been
23 equipped with a child-resistant safety device. This eight
24 percent represents instances in which children under the
25 age of six unintentionally shot and killed themselves or
26 other persons.

27 (g) Currently, firearms are the only products
28 manufactured in the United States that are not subject to
29 minimum safety standards.

30 (h) A 1997 public opinion poll conducted by the
31 National Opinion Research Center at the University of
32 Chicago in conjunction with the Johns Hopkins Center
33 for Gun Policy and Research found that 74 percent of
34 Americans support safety regulation of the firearms
35 industry.

36 (i) Many currently available trigger locks and other
37 similar devices are inadequate to prevent the accidental
38 discharge of the firearms to which they are attached, or
39 to prevent children from gaining access to the firearm.



1 12088. (a) Beginning July 1, 2000, no person, firm or
2 corporation may import firearms into California unless
3 licensed by the Attorney General.

4 (b) Beginning August 1, 2000, all licensed firearm
5 importers shall require that each employee obtain a
6 certificate of eligibility pursuant to paragraph (4) of
7 subdivision (a) of Section 12071, which shall be renewed
8 annually, prior to being allowed to come into contact with
9 any firearm.

10 (c) The licensee shall prohibit any employee who the
11 licensee knows or reasonably should know is within a class
12 of persons prohibited from possessing firearms pursuant
13 to Section 12021 or 12021.1 of this code, or Section 8100 or
14 8103 of the Welfare and Institutions Code, from coming
15 into contact with any firearm.

16 12088.1. Effective January 1, 2001:

17 (a) All firearms sold or transferred in this state, or
18 delivered by a licensed manufacturer or licensed
19 importer to a licensed dealer for sale in this state, shall
20 include or be accompanied by a child accident
21 prevention device approved by the Attorney General.

22 (b) All firearms sold or transferred in this state, or
23 delivered by a licensed dealer for sale in this state, shall
24 include or be accompanied by the approved child
25 accident prevention device supplied to the dealer by the
26 licensed manufacturer or importer. If the firearm was
27 produced prior to January 1, 2001, the firearm shall be sold
28 with a child accident prevention device approved by the
29 Attorney General.

30 (c) All firearms sold or transferred in this state, or
31 delivered by a licensed manufacturer, licensed importer,
32 or licensed dealer for sale in this state shall bear the
33 warning label or labels prescribed in Section 12088.3.

34 12088.2. (a) No later than January 1, 2000, the
35 Attorney General shall commence development of
36 regulations to implement a minimum safety standard for
37 child accident prevention devices to significantly reduce
38 the risk of firearms-related injuries to children 18 years of
39 age and younger. The final standard shall do all of the
40 following:



1 (1) Address the risk of injury from unintentional
2 gunshot wounds.
3 (2) Address the risk of injury from self-inflicted
4 gunshot wounds.
5 (3) Include provisions to ensure that all child accident
6 prevention devices are of adequate quality and
7 construction to prevent children from firing the firearm
8 and to ensure that these devices cannot be removed from
9 the firearm except by an authorized adult user utilizing
10 the key, combination, or other method of access intended
11 by the manufacturer of the device.
12 (4) Include additional provisions as appropriate.
13 (b) The Attorney General shall consult, for the
14 purposes of guidance in development of the standard, test
15 protocols such as those described in Title 16
16 (commencing with Part 1700) of the Code of Federal
17 Regulations, relating to poison prevention packaging
18 standards. The Attorney General shall also give
19 appropriate consideration to the use of devices that are
20 not detachable, but are permanently installed and
21 incorporated into the design of a firearm. The Attorney
22 General shall adopt and issue regulations implementing
23 a final standard not later than July 1, 2000. The final
24 standard shall be effective January 1, 2001.
25 12088.3. (a) The packaging of any firearm and any
26 descriptive materials that accompany any firearm sold or
27 transferred in this state, or delivered for sale in this state,
28 by any licensed manufacturer, licensed importer, or
29 licensed dealer, shall bear a label containing the following
30 warning statement:
31



WARNING

Children are attracted to and can operate firearms that
can cause severe injuries or death.

Prevent child access by always keeping handguns
locked away and unloaded.

A yellow triangle containing an exclamation mark shall
appear immediately before the word ‘Warning’ on the
label.

(b) If the firearm is sold or transferred without
accompanying packaging, the warning label shall be
affixed to the firearm itself by a method to be prescribed
by regulation of the Attorney General.

(c) The warning statement required under
subdivisions (a) and (b) shall be:

(1) Displayed in its entirety on the principal display
panel of the firearm’s package, and on any descriptive
materials that accompany the firearm.

(2) Displayed in both English and Spanish in
conspicuous and legible type in contrast by typography,
layout, or color with other printed matter on that package
or descriptive materials in a manner consistent with Part
1500.121 of Title 16, of the Code of Federal Regulations,
or successor regulations thereto.

12088.4. (a) If at any time the Attorney General
determines that a firearm or child accident prevention
device subject to the provisions of this article and
distributed after January 1, 2001, does not conform with
the standards and warnings required by Sections 12088.1,
12088.2, and 12088.3, the Attorney General may order the
recall and replacement of the firearm or child accident
prevention device by the licensed manufacturer, or order
that the licensed manufacturer bring the firearm or child
accident prevention device into conformity with those
requirements. If only the child accident prevention
device is recalled, the licensed manufacturer of the child
accident prevention device shall immediately provide a
conforming replacement.



1 12088.5. (a) Each licensed manufacturer, licensed
2 importer, or licensed dealer shall report to the Attorney
3 General any information obtained by the manufacturer,
4 importer, or dealer which reasonably supports the
5 conclusion that:

6 (1) Any incident in which a child 18 years of age or
7 younger suffered an unintentional or self-inflicted
8 gunshot wound inflicted by a firearm that was sold or
9 transferred in this state, or delivered for sale in this state,
10 by the licensed manufacturer, licensed importer, or
11 licensed dealer, after the effective date of this article.

12 (2) Whether as a result of that incident the child died,
13 suffered serious injury, or was treated for an injury by a
14 medical professional.

15 12088.6. Any violation of Sections 12088, 12088.1,
16 12088.3, or 12088.5 is a misdemeanor punishable by a fine
17 of one thousand dollars (\$1,000). On the second violation
18 of any of those sections, the licensed firearm
19 manufacturer shall be ineligible to manufacture, the
20 licensed firearm importer shall be ineligible to import, or
21 the licensed firearm dealer shall be ineligible to sell,
22 firearms in this state for 30 days, and shall be punished by
23 a fine of one thousand dollars (\$1,000). On the third
24 violation of any of those sections, a firearm manufacturer
25 shall be permanently ineligible to manufacture firearms
26 in this state. On the third violation of any of those sections,
27 a licensed firearm importer shall be permanently
28 ineligible to import firearms into this state for sale in this
29 state. On the third violation of any of those sections, a
30 licensed firearm dealer shall be permanently ineligible to
31 sell firearms in this state.

32 12088.7. (a) Compliance with the requirements set
33 forth in this article shall not relieve any person from
34 liability to any other person as may be imposed pursuant
35 to common law, statutory law, or local ordinance.

36 (b) Nothing in this article shall require or prohibit any
37 local ordinance which places a more stringent
38 requirement upon firearms manufacturers, importers, or
39 dealers regarding firearm use-limitation devices or
40 trigger locks.



1 12088.8. (a) This article does not apply to the
2 commerce of any firearm defined as an “antique firearm”
3 in paragraph (16) of subsection (a) of Section 921 of Title
4 18 of the United States Code.

5 (b) This article does not apply to the commerce of any
6 firearm defined as a relic or curio in Part 178.11 of Title
7 27 of the Code of Federal Regulations, or any firearm that
8 is an item of memorabilia or a display firearm.

9 (c) This article shall not apply to the commerce of any
10 firearm intended to be used by a full-time, paid peace
11 officer as defined in Chapter 4.5 (commencing with
12 Section 830) of Title 3 of Part 2.

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

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.

