

AMENDED IN ASSEMBLY MARCH 10, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 106

Introduced by Assembly Members Scott and Aroner

(Coauthors: Assembly Members Davis, Dutra, Havice, Hertzberg, Jackson, Keeley, Knox, Kuehl, Lempert, Longville, Romero, Shelley, Steinberg, Washington, Wesson, and Wildman)

(Coauthors: Senators Alpert, Figueroa, Perata, and Solis)

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 amended, 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~~ *Firearms Safety* 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~~—*July* 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~~ *firearms safety* device approved by the Attorney General.

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

The bill would require the Attorney General, not later than July 1, 2001, to certify laboratories to test child safety devices, and would authorize the Department of Justice to charge the laboratories a fee not exceeding the costs of certification. The bill would also require the department to notify the manufacturer, importer, or dealer of the department's determination regarding whether the firearms safety device may be sold in this state. The bill would further require the department, not later than July 1, 2001, to compile, publish, and maintain a roster listing all safety devices that have been tested as described above, have been determined by the department to meet the standards for child safety devices, and that may be sold in this state.

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~~ firearms safety device distributed in this state after ~~January~~ July 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~~ law enforcement agency investigating an incident 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~~
9 *Firearms Safety Act of 1999.*”

10 12087.5. The Legislature makes the following
11 findings:



1 ~~(a) In the last 10 years more than 2,300 American~~
2 ~~children 14 years of age and younger have died from~~
3 ~~unintentional shootings. In 1994 alone, 185 children were~~
4 ~~shot and killed unintentionally. Thus, more than 15~~
5 ~~children every month, or one child every other day were~~
6 *In the years 1987 to 1996, nearly 2,200 children in the*
7 *United States under the age of 15 years died in*
8 *unintentional shootings. In 1996 alone, 138 children were*
9 *shot and killed unintentionally. Thus, more than 11*
10 *children every month, or one child every three days,*
11 *were shot or killed unintentionally in firearms-related*
12 *incidents.*

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

21 (c) While the number of unintentional deaths from
22 firearms is an unacceptable toll on America's children,
23 nearly eight times that number are treated in U.S.
24 hospital emergency rooms each year for nonfatal
25 unintentional gunshot wounds.

26 (d) A study of unintentional firearm deaths among
27 children in California found that unintentional gunshot
28 wounds most often involve handguns.

29 (e) A study in the December 1995 issue of the Archives
30 of Pediatric and Adolescent Medicine found that children
31 as young as three years old are strong enough to fire most
32 commercially available handguns. The study revealed
33 that 25 percent of three to four year olds and 70 percent
34 of five to six year olds had sufficient finger strength to fire
35 59 (92 percent) of the 64 commonly available handguns
36 referenced in the study.

37 (f) The Government Accounting Office (GAO), in its
38 March 1991 study, "Accidental Shootings: Many Deaths
39 and Injuries Caused by Firearms Could be Prevented,"
40 estimates that 31 percent of accidental deaths caused by



1 firearms might be prevented by the addition of two safety
2 devices: a child-resistant safety device that automatically
3 engages and a device that indicates whether the gun is
4 loaded. According to the study results, of the 107
5 unintentional firearms-related fatalities the GAO
6 examined for the calendar years 1988 and 1989, eight
7 percent could have been prevented had the firearm been
8 equipped with a child-resistant safety device. This eight
9 percent represents instances in which children under the
10 age of six unintentionally shot and killed themselves or
11 other persons.

12 (g) Currently, firearms are the only products
13 manufactured in the United States that are not subject to
14 minimum safety standards.

15 (h) A 1997 public opinion poll conducted by the
16 National Opinion Research Center at the University of
17 Chicago in conjunction with the Johns Hopkins Center
18 for Gun Policy and Research found that 74 percent of
19 Americans support safety regulation of the firearms
20 industry.

21 (i) ~~Many~~—*Some* currently available trigger locks and
22 other similar devices are inadequate to prevent the
23 accidental discharge of the firearms to which they are
24 attached, or to prevent children from gaining access to
25 the firearm.

26 12088. (a) Beginning July 1, ~~2000~~ 2001, no person,
27 firm or corporation may import firearms *for sale* into
28 California unless licensed by the Attorney General.

29 (b) Beginning ~~August 1, 2000~~ February 1, 2001, all
30 licensed firearm importers shall require that each
31 employee obtain a certificate of eligibility pursuant to
32 paragraph (4) of subdivision (a) of Section 12071, which
33 shall be renewed annually, prior to being allowed to come
34 into contact with *or having access to* any firearm.

35 (c) The licensee shall prohibit any employee who the
36 licensee knows or reasonably should know is within a class
37 of persons prohibited from possessing firearms pursuant
38 to Section 12021 or 12021.1 of this code, or Section 8100 or
39 8103 of the Welfare and Institutions Code, from coming
40 into contact with *or having access to* any firearm.



1 12088.1. Effective ~~January~~ July 1, 2001:

2 ~~(a) All firearms sold or transferred in this state, or~~
3 ~~delivered by a licensed manufacturer or licensed~~
4 ~~importer to a licensed dealer for sale in this state, shall~~
5 ~~include or be accompanied by a child accident~~
6 ~~prevention device approved by the Attorney General.~~

7 ~~(b)~~

8 *(a) On or before July 1, 2001, the Department of*
9 *Justice shall certify laboratories to verify compliance with*
10 *standards for firearms safety devices set forth in Section*
11 *12088.2.*

12 *(b) The Department of Justice may charge any*
13 *laboratory that is seeking certification to test firearms*
14 *safety devices a fee not exceeding the costs of*
15 *certification.*

16 *(c) The certified laboratory shall, at the*
17 *manufacturer's or importer's or dealer's expense, test the*
18 *firearms safety device and submit a copy of the final test*
19 *report directly to the Department of Justice along with*
20 *the firearms safety device. The department shall notify*
21 *the manufacturer, dealer, or importer of its receipt of the*
22 *final test report and the department's determination as to*
23 *whether the firearms safety device tested may be sold in*
24 *this state.*

25 *(d) On and after July 1, 2001, the Department of*
26 *Justice shall compile, publish, and thereafter maintain a*
27 *roster listing all of the safety devices that have been tested*
28 *by a certified testing laboratory, have been determined*
29 *to meet the department's standards for firearms safety*
30 *devices and may be sold in this state.*

31 *(e) The roster shall list, for each firearms safety device,*
32 *the manufacturer, model number, and model name.*

33 *(f) All firearms sold or transferred in this state, or*
34 *delivered by a licensed manufacturer or licensed*
35 *importer to a licensed dealer for sale in this state, shall*
36 *include or be accompanied by a firearms safety device*
37 *that is listed on the Department of Justice's roster of*
38 *approved firearms safety devices.*

39 *(g) All firearms sold or transferred in this state, or*
40 *delivered by a licensed dealer for sale in this state, shall*



1 include or be accompanied by the approved child
2 accident prevention device supplied to the dealer by the
3 licensed manufacturer or importer. If the firearm was
4 produced prior to January 1, 2001, the firearm shall be sold
5 with a ~~child accident prevention~~ *firearms safety* device
6 approved by the Attorney General.

7 ~~(e)~~

8 (h) All firearms sold or transferred in this state, or
9 delivered by a licensed manufacturer, licensed importer,
10 or licensed dealer for sale in this state shall bear the
11 warning label or labels prescribed in Section 12088.3.

12 12088.2. (a) No later than ~~January~~ *July* 1, 2000, the
13 Attorney General shall commence development of
14 regulations to implement a minimum safety standard for
15 ~~child accident prevention~~ *firearms safety* devices to
16 significantly reduce the risk of firearms-related injuries to
17 children 18 years of age and younger. The final standard
18 shall do all of the following:

19 (1) Address the risk of injury from unintentional
20 gunshot wounds.

21 (2) Address the risk of injury from self-inflicted
22 gunshot wounds *by unauthorized users*.

23 (3) Include provisions to ensure that all ~~child accident~~
24 ~~prevention~~ *firearms safety* devices are *reusable and* of
25 adequate quality and construction to prevent children
26 *and unauthorized users* from firing the firearm and to
27 ensure that these devices cannot be *readily* removed
28 from the firearm except by an authorized adult user
29 utilizing the key, combination, or other method of access
30 intended by the manufacturer of the device.

31 (4) Include additional provisions as appropriate.

32 (b) The Attorney General shall consult, for the
33 purposes of guidance in development of the standard, test
34 protocols such as those described in Title 16
35 (commencing with Part 1700) of the Code of Federal
36 Regulations, relating to poison prevention packaging
37 standards. The Attorney General shall also give
38 appropriate consideration to the use of devices that are
39 not detachable, but are permanently installed and
40 incorporated into the design of a firearm. The Attorney



1 with the standards and warnings required by Sections
2 12088.1, 12088.2, and 12088.3, the Attorney General may
3 order the recall and replacement of the firearm or ~~child~~
4 ~~accident-prevention firearms safety~~ device by the
5 licensed manufacturer, or order that the licensed
6 manufacturer bring the firearm or ~~child-accident~~
7 ~~prevention firearms safety~~ device into conformity with
8 those requirements. If only the ~~child-accident-prevention~~
9 ~~firearms safety~~ device is recalled, the licensed
10 manufacturer of the ~~child-accident-prevention firearms~~
11 ~~safety~~ device shall immediately provide a conforming
12 replacement.

13 12088.5. (a) Each ~~licensed manufacturer, licensed~~
14 ~~importer, or licensed dealer law enforcement agency~~
15 ~~investigating an incident~~ shall report to the Attorney
16 General any information obtained by the manufacturer,
17 importer, or dealer which reasonably supports the
18 conclusion that:

19 (1) Any incident in which a child 18 years of age or
20 younger suffered an unintentional or self-inflicted
21 gunshot wound inflicted by a firearm that was sold or
22 transferred in this state, or delivered for sale in this state,
23 by the licensed manufacturer, licensed importer, or
24 licensed dealer, after the effective date of this article.

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

28 12088.6. Any violation of ~~Sections 12088, 12088.1,~~
29 ~~12088.3, or 12088.5 is a misdemeanor Section 12088,~~
30 ~~subdivision (g) of Section 12088.1, subdivision (h) of~~
31 ~~Section 12088.1, or Section 12088.3 is~~ punishable by a fine
32 of one thousand dollars (\$1,000). On the second violation
33 of any of those sections, the licensed firearm
34 manufacturer shall be ineligible to manufacture, the
35 licensed firearm importer shall be ineligible to import, or
36 the licensed firearm dealer shall be ineligible to sell,
37 firearms in this state for 30 days, and shall be punished by
38 a fine of one thousand dollars (\$1,000). On the third
39 violation of any of those sections, a firearm manufacturer
40 shall be permanently ineligible to manufacture firearms



1 in this state. On the third violation of any of those sections,
2 a licensed firearm importer shall be permanently
3 ineligible to import firearms into this state for sale in this
4 state. On the third violation of any of those sections, a
5 licensed firearm dealer shall be permanently ineligible to
6 sell firearms in this state.

7 12088.7. (a) Compliance with the requirements set
8 forth in this article shall not relieve any person from
9 liability to any other person as may be imposed pursuant
10 to common law, statutory law, or local ordinance.

11 (b) Nothing in this article shall require or prohibit any
12 local ordinance which places a more stringent
13 requirement upon firearms manufacturers, importers, or
14 dealers regarding firearm use-limitation devices or
15 trigger locks.

16 12088.8. (a) This article does not apply to the
17 commerce of any firearm defined as an “antique firearm”
18 in paragraph (16) of subsection (a) of Section 921 of Title
19 18 of the United States Code.

20 (b) This article does not apply to the commerce of any
21 ~~firearm defined as a relic or curio in Part 178.11 of Title~~
22 ~~27 of the Code of Federal Regulations, or any firearm~~ that
23 is an item of memorabilia or a display firearm.

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

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

38 ~~Notwithstanding Section 17580 of the Government~~
39 ~~Code, unless otherwise specified, the provisions of this act~~



1 ~~shall become operative on the same date that the act~~
2 ~~takes effect pursuant to the California Constitution.~~

O

