

AMENDED IN SENATE JUNE 29, 2000

AMENDED IN ASSEMBLY MAY 26, 2000

AMENDED IN ASSEMBLY FEBRUARY 23, 2000

AMENDED IN ASSEMBLY FEBRUARY 15, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1717

Introduced by Assembly Member Hertzberg
(Principal coauthors: Assembly Members Kuehl, Scott, and
Wildman)
(Coauthors: Assembly Members Alquist, Keeley, Knox,
Shelley, and Washington)
(Coauthor: Senator Alarcon)

January 3, 2000

An act to add Section 12072.5 to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1717, as amended, Hertzberg. Firearms: ballistic testing.

(1) Existing law regulates the sale, transfer, and delivery of firearms by persons, corporations, firms, and dealers. Violations of specified provisions of law governing the sale or transfer of firearms may be punished as a misdemeanor or a felony.

~~This bill would require the Attorney General to evaluate, as specified, ballistic identification systems and to make a~~

~~determination and report to the Legislature by January 1, 2003, as to whether a system or systems should be used statewide. The bill would also provide that if the Attorney General determines a ballistic identification system or systems should be used, and if the Legislature appropriates funds to implement the system or systems, then no person who is licensed as a manufacturer of firearms pursuant to federal law could sell or otherwise transfer their ownership of a handgun to a resident of this state, unless the manufacturer has complied with provisions requiring the submission of ballistic identification information for all handguns that the manufacturer has manufactured. This bill would also prohibit, subject to the Attorney General's determination and the funding described above, a person or importer from importing a handgun for sale unless that person or company provides, prior to importation, satisfactory evidence that ballistic identification information, as specified, for each handgun has been submitted to the Department of Justice. The bill would exempt antique firearms, as defined, and curios and relics, as defined, from these provisions. The bill would provide that a violation of these provisions is a misdemeanor. By creating a new crime punishable as a misdemeanor, this bill would impose a state-mandated local program.~~

~~(2) 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.~~

This bill would require the Attorney General to conduct a study to evaluate ballistic identification systems, as defined, to determine the feasibility and potential benefits to law enforcement of utilizing a statewide ballistic identification system capable of maintaining a data base of ballistic images and information from test fired and sold firearms, as specified. The Attorney General would be required to submit a report to the Legislature with the results of the study no later than June 1, 2001.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes-no*.

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

SECTION 1. Section 12072.5 is added to the Penal Code, to read:

~~12072.5. (a) The Attorney General shall evaluate ballistic identification systems, including any federal ballistic identification system, and shall make a formal determination by January 1, 2003, as to whether a ballistic identification system or systems should be utilized on a statewide level for law enforcement agencies in California. The Attorney General shall submit a report with the results of the evaluation to the Legislature by January 1, 2003.~~

~~(b) The evaluation of ballistic identification systems required pursuant to subdivision (a) shall include at a minimum, but not be limited to, consideration of the following:~~

~~(1) Whether the system or systems are capable of maintaining a handgun data base for the entire state of California.~~

~~(2) Whether the system or systems are compatible with other ballistic identification systems, including systems utilized at the federal level, and will allow for sharing of information.~~

~~(3) The potential costs of implementing and operating a system or systems compared to the potential benefit to law enforcement.~~

~~(4) Whether a standard protocol for image capture, storage, and data identification exists.~~

~~(5) Potential issues related to the evidentiary use of ballistic identification information.~~

~~(c) If the Attorney General concludes that a ballistic identification system or systems should be used on a statewide level for law enforcement in California and the Legislature appropriates funds for the implementation and operation of such a system or systems, then paragraphs (1) and (2) shall become effective one year from the date of the appropriation. Upon appropriation of funds by the Legislature, the Attorney General shall~~

1 ~~give public notice of the requirements of paragraphs (1)~~
2 ~~and (2).~~

3 ~~(1) No person who is licensed as a manufacturer~~
4 ~~pursuant to Chapter 44 (commencing with Section 921)~~
5 ~~of Title 18 of the United States Code and the regulations~~
6 ~~issued pursuant thereto shall sell or otherwise transfer~~
7 ~~their ownership of a pistol, revolver, or other firearm~~
8 ~~capable of being concealed upon the person to a person~~
9 ~~who is residing in this state, unless that manufacturer first~~
10 ~~provides ballistic information, as required by the~~
11 ~~Attorney General, for all pistols, revolvers, or other~~
12 ~~firearms capable of being concealed upon the person that~~
13 ~~the manufacturer manufactured, to the Department of~~
14 ~~Justice, in a format prescribed by the department.~~

15 ~~(2) No person or company shall import for sale in~~
16 ~~California, a pistol, revolver, or other firearm capable of~~
17 ~~being concealed upon the person unless that person or~~
18 ~~company provides, prior to importation, satisfactory~~
19 ~~evidence that ballistic identification information, as~~
20 ~~required by the Attorney General, for each pistol,~~
21 ~~revolver, or other firearm capable of being concealed~~
22 ~~upon the person has been submitted to the Department~~
23 ~~of Justice in the format prescribed by the department.~~

24 ~~(d) This section does not apply to any antique~~
25 ~~firearms, as defined in paragraph (5) of subdivision (a) of~~
26 ~~Section 12020, or any curio or relic as defined in Section~~
27 ~~178.11 of Title 27 of the Code of Federal Regulations.~~

28 ~~(e) A violation of paragraph (1) or (2) of subdivision~~
29 ~~(e) is a misdemeanor.~~

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 12072.5. (a) For purposes of this section, “ballistics
2 identification systems” includes, but is not limited to, any
3 automated image analysis system that is capable of storing
4 firearm ballistic markings and tracing those markings to
5 the firearm that produced them.

6 (b) The Attorney General shall conduct a study to
7 evaluate ballistics identification systems to determine the
8 feasibility and potential benefits to law enforcement of
9 utilizing a statewide ballistics identification system
10 capable of maintaining a data base of ballistic images and
11 information from test fired and sold firearms. The study
12 shall include an evaluation of ballistics identification
13 systems currently used by state and federal law
14 enforcement agencies and the firearms industry. The
15 Attorney General shall consult with law enforcement
16 agencies, firearms industry representatives, private
17 technology providers, and other appropriate parties in
18 conducting the study.

19 (c) In evaluating ballistics identification systems to
20 determine the feasibility of utilizing a statewide system
21 as required pursuant to subdivision (b), the Attorney
22 General shall consider, at a minimum, the following:

23 (1) The development of methods by which firearm
24 manufacturers, importers, and dealers may potentially
25 capture ballistic images from firearms prior to sale in
26 California and forward that information to the Attorney
27 General.

28 (2) The development of methods by which the
29 Attorney General will receive, store, and make available
30 to law enforcement ballistic images submitted by firearm
31 manufacturers, importers, and dealers prior to sale in
32 California.

33 (3) The potential financial costs to the Attorney
34 General of implementing and operating a statewide
35 ballistics identification system, including the process for
36 receipt of information from firearm manufacturers,
37 importers, and dealers.

38 (4) The capability of a ballistics identification system
39 maintaining a data base of ballistic images and

1 *information from test fired firearms for all firearms sold*
2 *in California.*

3 *(5) The compatibility of a ballistics identification*
4 *system with ballistics identification systems that are*
5 *currently used by law enforcement agencies in*
6 *California.*

7 *(6) A method to ensure that state and local law*
8 *enforcement agencies can forward ballistic identification*
9 *information to the Attorney General for inclusion in a*
10 *statewide ballistics identification system.*

11 *(7) The feasibility and potential benefits to law*
12 *enforcement of requiring firearm manufacturers,*
13 *importers, and dealers to provide the Attorney General*
14 *with ballistic images from any, or a selected number of,*
15 *test fired firearms prior to the sale of those firearms in*
16 *California.*

17 *(d) The Attorney General shall submit a report to the*
18 *Legislature with the results of the study not later than*
19 *June 1, 2001. In the event the report includes a*
20 *determination that a ballistics identification system and*
21 *data base is feasible and would benefit law enforcement,*
22 *the report shall also recommend a strategy for*
23 *implementation.*

