

AMENDED IN SENATE JANUARY 25, 1999

**SENATE BILL**

**No. 15**

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**Introduced by Senator Polanco**

December 7, 1998

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An act to add Chapter 1.3 (commencing with Section 12125) to Title 2 of Part 4 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 15, as amended, Polanco. Firearms.

Existing law makes it a misdemeanor or felony to manufacture or cause to be manufactured, import into the state, keep for sale, offer or expose for sale, give, lend, or possess specified weapons, but not including an unsafe handgun.

This bill, commencing January 1, 2001, would make it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified. By creating new crimes, this bill would impose a state-mandated local program.

This bill additionally would require every person licensed to manufacture firearms pursuant to federal law who manufactures firearms in this state and every person who imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm to certify under penalty of perjury that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that he or she manufactures or imports, keeps, or exposes for

sale is not a prohibited unsafe handgun. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The bill also would require any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, to be tested by an independent laboratory certified by the Department of Justice to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person meets or exceeds specified standards defining unsafe handguns. The bill would require the Department of Justice to certify laboratories for this purpose on or before July 1, 2000.

The bill also would require the Department of Justice, on and after January 1, 2001, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that are not unsafe handguns by the manufacturer, model number, and model name. The bill would authorize the department to charge every person in this state who is licensed as a manufacturer of firearms pursuant to federal law, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster.

*This bill would make the above provisions inapplicable to specified transactions involving the sale, loan, or transfer of any firearm and to a single-action revolver with specified features.*

The bill would state the intent of the Legislature that the Department of Justice pursue an internal loan from special fund revenues available to the department to cover startup costs for the unsafe handgun program established pursuant to the bill. The bill would require the department to repay any loan with the proceeds of fees collected under that program within 6 months.

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. Chapter 1.3 (commencing with Section  
2 12125) is added to Title 2 of Part 4 of the Penal Code, to  
3 read:

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CHAPTER 1.3. UNSAFE HANDGUNS

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7 12125. (a) Commencing January 1, 2001, any person  
8 in this state who manufactures or causes to be  
9 manufactured, imports into the state for sale, keeps for  
10 sale, offers or exposes for sale, gives, or lends any unsafe  
11 handgun shall be punished by imprisonment in a county  
12 jail not exceeding one year.

13 (b) This section shall not apply to any of the following:

14 (1) The manufacture in this state, or importation into  
15 this state, of any prototype pistol, revolver, or other  
16 firearm capable of being concealed upon the person  
17 when the manufacture or importation is for the sole  
18 purpose of allowing an independent laboratory certified  
19 by the Department of Justice pursuant to Section 12130  
20 to conduct an independent test to determine whether  
21 that pistol, revolver, or other firearm capable of being  
22 concealed upon the person is prohibited by this chapter,  
23 and, if not, for the department to add the firearm to the  
24 roster of pistols, revolvers, and other firearms capable of  
25 being concealed upon the person that may be sold in this  
26 state pursuant to Section 12131.

27 (2) The importation or lending of a pistol, revolver, or  
28 other firearm capable of being concealed upon the  
29 person by employees or authorized agents determining  
30 whether the weapon is prohibited by this section.



1 (3) The sale to, purchase by, or possession of, any  
2 pistol, revolver, or other firearm capable of being  
3 concealed upon the person by the Department of Justice,  
4 police departments, sheriffs' officials, marshals' offices,  
5 the Department of Corrections, the California Highway  
6 Patrol, district attorneys' offices, full-time paid peace  
7 officers of other states and the federal government, the  
8 federal military forces, the California National Guard, or  
9 the State Military Reserve, excluding the unorganized  
10 militia, when that weapon would be prevented by this  
11 chapter from being sold in this state solely because it fails  
12 to meet minimum frame and barrel size prerequisites  
13 established by this chapter. Nothing in this chapter shall  
14 prohibit the possession or use of any pistol, revolver, or  
15 other firearm capable of being concealed upon the  
16 person that would be prevented by this chapter from  
17 being sold in this state solely because it fails to meet  
18 minimum frame size prerequisites by sworn members of  
19 these agencies when on duty and the use is within the  
20 scope of their duties.

21 (4) Firearms listed as curios or relics, as defined in  
22 Section 178.11 of Title 27 of the Code of Federal  
23 Regulations.

24 (c) Violations of subdivision (a) are cumulative with  
25 respect to each handgun and shall not be construed as  
26 restricting the application of any other law. However, an  
27 act or omission punishable in different ways by this  
28 section and other provisions of law shall not be punished  
29 under more than one provision, but the penalty to be  
30 imposed shall be determined as set forth in Section 654.

31 12126. As used in this chapter, "unsafe handgun"  
32 means any pistol, revolver, or other firearm capable of  
33 being concealed upon the person, as defined in  
34 subdivision (a) of Section 12001, for which any of the  
35 following is true:

36 (a) For a revolver:

37 (1) It has an overall frame length of less than four and  
38 one-half inches measured on a line parallel to the barrel.

39 (2) It has a barrel length less than three inches.

(3) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(4) It does not meet the firing requirement for handguns pursuant to Section 12127.

(5) It does not meet the drop safety requirement for handguns pursuant to Section 12128.

(b) For a pistol:

(1) It does not have a positive manually operated safety device.

(2) It has a combined length and height less than 10 inches with the height (right angle measurement to the barrel without magazine or extension) less than four inches and the length less than six inches.

(3) It does not meet the firing requirement for handguns pursuant to Section 12127.

(4) It does not meet the drop safety requirement for handguns pursuant to Section 12128.

12127. (a) As used in this chapter, the “firing requirement for handguns” means a test in which the manufacturer provides three handguns of the make and model for which certification is sought, these handguns not being in any way modified from those that would be sold if certification is granted, to an independent testing laboratory certified by the Attorney General pursuant to Section 12130. The laboratory shall fire 600 rounds from each gun, stopping after each series of 50 rounds has been fired for 5 to 10 minutes to allow the weapon to cool, stopping after each series of 100 rounds has been fired to tighten any loose screws and clean the gun in accordance with the manufacturer’s instructions, and stopping as needed to refill the empty magazine or cylinder to capacity before continuing. The ammunition used shall be of the type recommended by the handgun manufacturer in the user manual, or if none is recommended, any standard ammunition of the correct

1 caliber in new condition. A handgun shall pass this test if  
2 each of the three test guns meets both of the following:

3 (1) Fires the first 20 rounds without a malfunction that  
4 is not due to faulty magazine or ammunition.

5 (2) Fires the full 600 rounds with no more than six  
6 malfunctions that are not due to faulty magazine or  
7 ammunition and without any crack or breakage of an  
8 operating part of the handgun that increases the risk of  
9 injury to the user.

10 (b) If a pistol or revolver fails the requirements of  
11 either paragraph (1) or (2) of subdivision (a) due to  
12 either a faulty magazine or faulty ammunition, the pistol  
13 or revolver shall be retested from the beginning of the  
14 “firing requirement for handguns” test. A new model of  
15 the pistol or revolver that failed due to a faulty magazine  
16 or ammunition may be submitted for the test to replace  
17 the pistol or revolver that failed.

18 (c) As used in this section, “malfunction” means a  
19 failure to properly feed, fire, or eject a round, or failure  
20 of a pistol to accept or reject a manufacturer-approved  
21 magazine, or failure of a pistol’s slide to remain open after  
22 a manufacturer-approved magazine has been expended.

23 12128. As used in this chapter, the “drop safety  
24 requirement for handguns” means that at the conclusion  
25 of the firing requirements for handguns described in  
26 Section 12127, the same certified independent testing  
27 laboratory shall subject the same three handguns of the  
28 make and model for which certification is sought, to the  
29 following test:

30 A primed case (no powder or projectile) shall be  
31 inserted into the chamber. For pistols, the slide shall be  
32 released, allowing it to move forward under the impetus  
33 of the recoil spring, and an empty magazine shall be  
34 inserted. For both pistols and revolvers, the weapon shall  
35 be placed in a drop fixture capable of dropping the pistol  
36 from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the  
37 largest side of a slab of solid concrete having minimum  
38 dimensions 7.5 × 15 × 15 cm (3 × 6 × 6 in). The drop  
39 distance shall be measured from the lowermost portion of  
40 the weapon to the top surface of the slab. The weapon



1 shall be dropped from a fixture and not from the hand.  
2 The weapon shall be dropped in the condition that it  
3 would be in if it were dropped from a hand (cocked with  
4 no manual safety applied). If the design of a pistol is such  
5 that upon leaving the hand a “safety” is automatically  
6 applied by the pistol, this feature shall not be defeated. An  
7 approved drop fixture is a short piece of string with the  
8 weapon attached at one end and the other end held in an  
9 air vise until the drop is initiated.

10 The following six drops shall be performed:

- 11 (a) Normal firing position with barrel horizontal.
- 12 (b) Upside down with barrel horizontal.
- 13 (c) On grip with barrel vertical.
- 14 (d) On muzzle with barrel vertical.
- 15 (e) On either side with barrel horizontal.
- 16 (f) If there is an exposed hammer or striker, on the  
17 rearmost point of that device, otherwise on the rearmost  
18 point of the weapon.

19 The primer shall be examined for indentations after  
20 each drop. If indentations are present, a fresh primed case  
21 shall be used for the next drop.

22 The handgun shall pass this test if each of the three test  
23 guns does not fire the primer.

24 12129. Every person who is licensed as a  
25 manufacturer of firearms pursuant to Chapter 44  
26 (commencing with Section 921) of Title 18 of the United  
27 States Code who manufactures firearms in this state, and  
28 every person who imports into the state for sale, keeps for  
29 sale, or offers or exposes for sale any firearm, shall certify  
30 under penalty of perjury and any other remedy provided  
31 by law that every model, kind, class, style, or type of pistol,  
32 revolver, or other firearm capable of being concealed  
33 upon the person that he or she manufactures or imports,  
34 keeps, or exposes for sale is not an unsafe handgun as  
35 prohibited by this chapter.

36 12130. (a) Any pistol, revolver, or other firearm  
37 capable of being concealed upon the person  
38 manufactured in this state, imported into the state for  
39 sale, kept for sale, or offered or exposed for sale, shall be  
40 tested within a reasonable period of time by an

1 independent laboratory certified pursuant to subdivision  
2 (b) to determine whether that pistol, revolver, or other  
3 firearm capable of being concealed upon the person  
4 meets or exceeds the standards defined in Section 12126.

5 (b) On or before July 1, 2000, the Department of  
6 Justice shall certify laboratories to verify compliance with  
7 the standards defined in Section 12126. The department  
8 may charge any laboratory that is seeking certification to  
9 test any pistol, revolver, or other firearm capable of being  
10 concealed upon the person pursuant to this chapter a fee  
11 not exceeding the costs of certification.

12 (c) The certified testing laboratory shall, at the  
13 manufacturer's or importer's expense, test the firearm  
14 and submit a copy of the final test report directly to the  
15 Department of Justice along with a prototype of the  
16 weapon. The department shall notify the manufacturer  
17 or importer of its receipt of the final test report and the  
18 department's determination as to whether the firearm  
19 tested may be sold in this state.

20 12131. (a) On and after January 1, 2001, the  
21 Department of Justice shall compile, publish, and  
22 thereafter maintain a roster listing all of the pistols,  
23 revolvers, and other firearms capable of being concealed  
24 upon the person that have been tested by a certified  
25 testing laboratory, have been determined not to be  
26 unsafe handguns, and may be sold in this state pursuant  
27 to this title. The roster shall list, for each firearm, the  
28 manufacturer, model number, and model name.

29 (b) The department shall include on the roster any  
30 pistol, revolver, or other firearm capable of being  
31 concealed upon the person listed as a curio or relic, as  
32 defined in Section 178.11 of Title 27 of the Code of Federal  
33 Regulations.

34 (c) (1) The department may charge every person in  
35 this state who is licensed as a manufacturer of firearms  
36 pursuant to Chapter 44 (commencing with Section 921)  
37 of Title 18 of the United States Code, and any person in  
38 this state who manufactures or causes to be  
39 manufactured, imports into the state for sale, keeps for  
40 sale, or offers or exposes for sale any pistol, revolver, or



1 other firearm capable of being concealed upon the  
2 person in this state, an annual fee not exceeding the costs  
3 of preparing, publishing, and maintaining the roster  
4 pursuant to subdivisions (a) and (b).

5 (2) Any pistol, revolver, or other firearm capable of  
6 being concealed upon the person that is manufactured by  
7 a manufacturer who manufactures or causes to be  
8 manufactured, imports into the state for sale, keeps for  
9 sale, or offers or exposes for sale any pistol, revolver, or  
10 other firearm capable of being concealed upon the  
11 person in this state, and who fails to pay any fee required  
12 pursuant to paragraph (1), may be excluded from the  
13 roster.

14 12132. This chapter shall not apply to any of the  
15 following:

16 ~~(a) The transfer of any firearm pursuant to Section~~  
17 ~~12082 or 12084 in order to comply with subdivision (d) of~~  
18 ~~Section 12072.~~

19 ~~(b) The transfer of any firearm between immediate~~  
20 ~~family members that is exempt from the provisions of~~  
21 ~~subdivision (d) of Section 12072 pursuant to subdivision~~  
22 ~~(e) of Section 12078.~~

23 *(a) The sale, loan, or transfer of any firearm pursuant*  
24 *to Section 12082 or 12084 in order to comply with*  
25 *subdivision (d) of Section 12072.*

26 *(b) The sale, loan, or transfer of any firearm that is*  
27 *exempt from the provisions of subdivision (d) of Section*  
28 *12072 pursuant to any applicable exemption contained in*  
29 *Section 12078, if the sale, loan, or transfer complies with*  
30 *the requirements of that applicable exemption to*  
31 *subdivision (d) of Section 12072.*

32 *(c) The sale, loan, or transfer of any firearm as*  
33 *described in paragraph (3) of subdivision (b) of Section*  
34 *12125.*

35 12133. The provisions of this chapter shall not apply to  
36 a single-action revolver that has at least a five-cartridge  
37 capacity with a barrel length of not less than three inches,  
38 and meets any of the following specifications:

1 (a) Was originally manufactured prior to 1900 and is a  
2 curio or relic, as defined in Section 178.11 of Title 27 of the  
3 Code of Federal Regulations.

4 (b) Has an overall length measured parallel to the  
5 barrel of at least seven and one-half inches when the  
6 handle, frame or receiver, and barrel are assembled.

7 (c) Has an overall length measured parallel to the  
8 barrel of at least seven and one-half inches when the  
9 handle, frame or receiver, and barrel are assembled and  
10 that is currently approved for importation into the United  
11 States pursuant to the provisions of paragraph (3) of  
12 subsection (d) of Section 925 of Title 18 of the United  
13 States Code.

14 SEC. 2. It is the intent of the Legislature that the  
15 Department of Justice pursue an internal loan from  
16 special fund revenues available to the department to  
17 cover startup costs for the program established pursuant  
18 to Section 1 of this act. Any loan shall be repaid with the  
19 proceeds of fees collected under that program within six  
20 months.

21 SEC. 3. No reimbursement is required by this act  
22 pursuant to Section 6 of Article XIII B of the California  
23 Constitution because the only costs that may be incurred  
24 by a local agency or school district will be incurred  
25 because this act creates a new crime or infraction,  
26 eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section  
28 17556 of the Government Code, or changes the definition  
29 of a crime within the meaning of Section 6 of Article  
30 XIII B of the California Constitution.

31 Notwithstanding Section 17580 of the Government  
32 Code, unless otherwise specified, the provisions of this act  
33 shall become operative on the same date that the act  
34 takes effect pursuant to the California Constitution.