

AMENDED IN SENATE APRIL 5, 1999

AMENDED IN SENATE JANUARY 25, 1999

SENATE BILL

No. 15

Introduced by Senator Polanco

December 7, 1998

~~An act to add Chapter 1.3 (commencing with Section 12125) to Title 2 of Part 4 of the Penal Code, relating to firearms.~~ *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~~ 2000, 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~~ *July 1, 2000*, 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 *SECTION 1. Chapter 1.3 (commencing with Section*
3 *12125) is added to Title 2 of Part 4 of the Penal Code, to*
4 *read:*

5
6 *CHAPTER 1.3. UNSAFE HANDGUNS*
7

8 *12125. (a) Commencing July 1, 2000, any person in*
9 *this state who manufactures or causes to be*
10 *manufactured, imports into the state for sale, keeps for*
11 *sale, offers or exposes for sale, gives, or lends any unsafe*
12 *handgun shall be punished by imprisonment in a county*
13 *jail not exceeding one year.*

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

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

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

5 (3) *Firearms listed as curios or relics, as defined in*
6 *Section 178.11 of Title 27 of the Code of Federal*
7 *Regulations.*

8 (c) *Violations of subdivision (a) are cumulative with*
9 *respect to each handgun and shall not be construed as*
10 *restricting the application of any other law. However, an*
11 *act or omission punishable in different ways by this*
12 *section and other provisions of law shall not be punished*
13 *under more than one provision, but the penalty to be*
14 *imposed shall be determined as set forth in Section 654.*

15 12126. *As used in this chapter, “unsafe handgun”*
16 *means any pistol, revolver, or other firearm capable of*
17 *being concealed upon the person, as defined in*
18 *subdivision (a) of Section 12001, for which any of the*
19 *following is true:*

20 (a) *For a revolver:*

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

27 (2) *It does not meet the firing requirement for*
28 *handguns pursuant to Section 12127.*

29 (3) *It does not meet the drop safety requirement for*
30 *handguns pursuant to Section 12128.*

31 (b) *For a pistol:*

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

34 (2) *It does not meet the firing requirement for*
35 *handguns pursuant to Section 12127.*

36 (3) *It does not meet the drop safety requirement for*
37 *handguns pursuant to Section 12128.*

38 12127. (a) *As used in this chapter, the “firing*
39 *requirement for handguns” means a test in which the*
40 *manufacturer provides three handguns of the make and*

1 model for which certification is sought, these handguns
2 not being in any way modified from those that would be
3 sold if certification is granted, to an independent testing
4 laboratory certified by the Attorney General pursuant to
5 Section 12130. The laboratory shall fire 600 rounds from
6 each gun, stopping after each series of 50 rounds has been
7 fired for 5 to 10 minutes to allow the weapon to cool,
8 stopping after each series of 100 rounds has been fired to
9 tighten any loose screws and clean the gun in accordance
10 with the manufacturer's instructions, and stopping as
11 needed to refill the empty magazine or cylinder to
12 capacity before continuing. The ammunition used shall
13 be of the type recommended by the handgun
14 manufacturer in the user manual, or if none is
15 recommended, any standard ammunition of the correct
16 caliber in new condition. A handgun shall pass this test if
17 each of the three test guns meets both of the following:

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

20 (2) Fires the full 600 rounds with no more than six
21 malfunctions that are not due to faulty magazine or
22 ammunition and without any crack or breakage of an
23 operating part of the handgun that increases the risk of
24 injury to the user.

25 (b) If a pistol or revolver fails the requirements of
26 either paragraph (1) or (2) of subdivision (a) due to
27 either a faulty magazine or faulty ammunition, the pistol
28 or revolver shall be retested from the beginning of the
29 "firing requirement for handguns" test. A new model of
30 the pistol or revolver that failed due to a faulty magazine
31 or ammunition may be submitted for the test to replace
32 the pistol or revolver that failed.

33 (c) As used in this section, "malfunction" means a
34 failure to properly feed, fire, or eject a round, or failure
35 of a pistol to accept or reject a manufacturer-approved
36 magazine, or failure of a pistol's slide to remain open after
37 a manufacturer-approved magazine has been expended.

38 12128. As used in this chapter, the "drop safety
39 requirement for handguns" means that at the conclusion
40 of the firing requirements for handguns described in

1 Section 12127, the same certified independent testing
2 laboratory shall subject the same three handguns of the
3 make and model for which certification is sought, to the
4 following test:

5 A primed case (no powder or projectile) shall be
6 inserted into the chamber. For pistols, the slide shall be
7 released, allowing it to move forward under the impetus
8 of the recoil spring, and an empty magazine shall be
9 inserted. For both pistols and revolvers, the weapon shall
10 be placed in a drop fixture capable of dropping the pistol
11 from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the
12 largest side of a slab of solid concrete having minimum
13 dimensions 7.5 × 15 × 15 cm (3 × 6 × 6 in). The drop
14 distance shall be measured from the lowermost portion of
15 the weapon to the top surface of the slab. The weapon
16 shall be dropped from a fixture and not from the hand.
17 The weapon shall be dropped in the condition that it
18 would be in if it were dropped from a hand (cocked with
19 no manual safety applied). If the design of a pistol is such
20 that upon leaving the hand a “safety” is automatically
21 applied by the pistol, this feature shall not be defeated. An
22 approved drop fixture is a short piece of string with the
23 weapon attached at one end and the other end held in an
24 air vise until the drop is initiated.

25 The following six drops shall be performed:

- 26 (a) Normal firing position with barrel horizontal.
- 27 (b) Upside down with barrel horizontal.
- 28 (c) On grip with barrel vertical.
- 29 (d) On muzzle with barrel vertical.
- 30 (e) On either side with barrel horizontal.
- 31 (f) If there is an exposed hammer or striker, on the
32 rearmost point of that device, otherwise on the rearmost
33 point of the weapon.

34 The primer shall be examined for indentations after
35 each drop. If indentations are present, a fresh primed case
36 shall be used for the next drop.

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

39 12129. Every person who is licensed as a
40 manufacturer of firearms pursuant to Chapter 44

1 (commencing with Section 921) of Title 18 of the United
2 States Code who manufactures firearms in this state, and
3 every person who imports into the state for sale, keeps for
4 sale, or offers or exposes for sale any firearm, shall certify
5 under penalty of perjury and any other remedy provided
6 by law that every model, kind, class, style, or type of pistol,
7 revolver, or other firearm capable of being concealed
8 upon the person that he or she manufactures or imports,
9 keeps, or exposes for sale is not an unsafe handgun as
10 prohibited by this chapter.

11 12130. (a) Any pistol, revolver, or other firearm
12 capable of being concealed upon the person
13 manufactured in this state, imported into the state for
14 sale, kept for sale, or offered or exposed for sale, shall be
15 tested within a reasonable period of time by an
16 independent laboratory certified pursuant to subdivision
17 (b) to determine whether that pistol, revolver, or other
18 firearm capable of being concealed upon the person
19 meets or exceeds the standards defined in Section 12126.

20 (b) On or before July 1, 2000, the Department of
21 Justice shall certify laboratories to verify compliance with
22 the standards defined in Section 12126. The department
23 may charge any laboratory that is seeking certification to
24 test any pistol, revolver, or other firearm capable of being
25 concealed upon the person pursuant to this chapter a fee
26 not exceeding the costs of certification.

27 (c) The certified testing laboratory shall, at the
28 manufacturer's or importer's expense, test the firearm
29 and submit a copy of the final test report directly to the
30 Department of Justice along with a prototype of the
31 weapon to be retained by the department. The
32 department shall notify the manufacturer or importer of
33 its receipt of the final test report and the department's
34 determination as to whether the firearm tested may be
35 sold in this state.

36 12131. (a) On and after July 1, 2000, the Department
37 of Justice shall compile, publish, and thereafter maintain
38 a roster listing all of the pistols, revolvers, and other
39 firearms capable of being concealed upon the person that
40 have been tested by a certified testing laboratory, have

1 *been determined not to be unsafe handguns, and may be*
2 *sold in this state pursuant to this title. The roster shall list,*
3 *for each firearm, the manufacturer, model number, and*
4 *model name.*

5 *(b) The department shall include on the roster any*
6 *pistol, revolver, or other firearm capable of being*
7 *concealed upon the person listed as a curio or relic, as*
8 *defined in Section 178.11 of Title 27 of the Code of Federal*
9 *Regulations.*

10 *(c) (1) The department may charge every person in*
11 *this state who is licensed as a manufacturer of firearms*
12 *pursuant to Chapter 44 (commencing with Section 921)*
13 *of Title 18 of the United States Code, and any person in*
14 *this state who manufactures or causes to be*
15 *manufactured, imports into the state for sale, keeps for*
16 *sale, or offers or exposes for sale any pistol, revolver, or*
17 *other firearm capable of being concealed upon the*
18 *person in this state, an annual fee not exceeding the costs*
19 *of preparing, publishing, and maintaining the roster*
20 *pursuant to subdivisions (a) and (b).*

21 *(2) Any pistol, revolver, or other firearm capable of*
22 *being concealed upon the person that is manufactured by*
23 *a manufacturer who manufactures or causes to be*
24 *manufactured, imports into the state for sale, keeps for*
25 *sale, or offers or exposes for sale any pistol, revolver, or*
26 *other firearm capable of being concealed upon the*
27 *person in this state, and who fails to pay any fee required*
28 *pursuant to paragraph (1), may be excluded from the*
29 *roster.*

30 *12131.5. (a) A firearm shall be deemed to satisfy the*
31 *requirements of subdivision (a) of Section 12131 if*
32 *another firearm made by the same manufacturer is*
33 *already listed and the unlisted firearm differs from the*
34 *listed firearm only in one or more of the following*
35 *features:*

36 *(1) Finish, including, but not limited to, bluing,*
37 *chrome-plating, oiling, or engraving.*

38 *(2) The material from which the grips are made.*

39 *(3) The shape or texture of the grips, so long as the*
40 *difference in grip shape or texture does not in any way*

1 *alter the dimensions, material, linkage, or functioning of*
2 *the magazine well, the barrel, the chamber, or any of the*
3 *components of the firing mechanism of the firearm.*

4 *(4) Any other purely cosmetic feature that does not in*
5 *any way alter the dimensions, material, linkage, or*
6 *functioning of the magazine well, the barrel, the*
7 *chamber, or any of the components of the firing*
8 *mechanism of the firearm.*

9 *(b) Any manufacturer seeking to have a firearm listed*
10 *under this section shall provide to the Department of*
11 *Justice all of the following:*

12 *(1) The model designation of the listed firearm.*

13 *(2) The model designation of each firearm that the*
14 *manufacturer seeks to have listed under this section.*

15 *(3) A statement, under oath, that each unlisted*
16 *firearm for which listing is sought differs from the listed*
17 *firearm only in one or more of the ways identified in*
18 *subdivision (a) and is in all other respects identical to the*
19 *listed firearm.*

20 *(c) The department may, in its discretion and at any*
21 *time, require a manufacturer to provide to the*
22 *department any model for which listing is sought under*
23 *this section, to determine whether the model complies*
24 *with the requirements of this section.*

25 *12132. This chapter shall not apply to any of the*
26 *following:*

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

30 *(b) The sale, loan, or transfer of any firearm that is*
31 *exempt from the provisions of subdivision (d) of Section*
32 *12072 pursuant to any applicable exemption contained in*
33 *Section 12078, if the sale, loan, or transfer complies with*
34 *the requirements of that applicable exemption to*
35 *subdivision (d) of Section 12072.*

36 *(c) The sale, loan, or transfer of any firearm as*
37 *described in paragraph (3) of subdivision (b) of Section*
38 *12125.*

39 *12133. The provisions of this chapter shall not apply to*
40 *a single-action revolver that has at least a five-cartridge*

1 capacity with a barrel length of not less than three inches,
2 and meets any of the following specifications:

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

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

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

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

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

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**All matter omitted in this version of the
bill appears in the bill as introduced/
amended in the Senate, January 25, 1999
(JR 11)**