

AMENDED IN ASSEMBLY JULY 13, 1999

AMENDED IN ASSEMBLY JUNE 16, 1999

AMENDED IN ASSEMBLY JUNE 2, 1999

AMENDED IN SENATE APRIL 13, 1999

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.

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 January 1, 2001.

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 specify that its provisions do not apply to the sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic.* 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 *and the costs of research and development, report analysis, firearms storage,*



and other program infrastructure costs necessary to implement the bill.

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:

4
5 CHAPTER 1.3. UNSAFE HANDGUNS
6

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

1 that pistol, revolver, or other firearm capable of being
2 concealed upon the person is prohibited by this chapter,
3 and, if not, for the department to add the firearm to the
4 roster of pistols, revolvers, and other firearms capable of
5 being concealed upon the person that may be sold in this
6 state pursuant to Section 12131.

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

11 (3) Firearms listed as curios or relics, as defined in
12 Section 178.11 of Title 27 of the Code of Federal
13 Regulations.

14 (4) The sale to, purchase by, or possession of any pistol,
15 revolver or other firearm capable of being concealed
16 upon the person by the Department of Justice, any police
17 department, any sheriff's official, any ~~marshals'~~ *marshal's*
18 office, the Youth and Adult Correctional Agency, the
19 California Highway Patrol, any district ~~attorneys'~~ *attorney's office*,
20 *attorney's office*, and the military or naval forces of this
21 state or of the United States for use in the discharge of
22 their official duties. Nor shall anything in this section
23 prohibit the possession of any pistol, revolver, or other
24 firearm capable of being concealed upon the person by
25 sworn members of these agencies, whether the sworn
26 member is on or off duty, or an individual who is retired
27 from service with a law enforcement agency and who is
28 not otherwise prohibited from possessing a concealable
29 firearm upon his or her retirement.

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

37 12126. As used in this chapter, "unsafe handgun"
38 means any pistol, revolver, or other firearm capable of
39 being concealed upon the person, as defined in

1 subdivision (a) of Section 12001, for which any of the
2 following is true:

3 (a) For a revolver:

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

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

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

14 (b) For a pistol:

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

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

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

21 12127. (a) As used in this chapter, the “firing
22 requirement for handguns” means a test in which the
23 manufacturer provides three handguns of the make and
24 model for which certification is sought, these handguns
25 not being in any way modified from those that would be
26 sold if certification is granted, to an independent testing
27 laboratory certified by the Attorney General pursuant to
28 Section 12130. The laboratory shall fire 600 rounds from
29 each gun, stopping after each series of 50 rounds has been
30 fired for 5 to 10 minutes to allow the weapon to cool,
31 stopping after each series of 100 rounds has been fired to
32 tighten any loose screws and clean the gun in accordance
33 with the manufacturer’s instructions, and stopping as
34 needed to refill the empty magazine or cylinder to
35 capacity before continuing. The ammunition used shall
36 be of the type recommended by the handgun
37 manufacturer in the user manual, or if none is
38 recommended, any standard ammunition of the correct
39 caliber in new condition. A handgun shall pass this test if
40 each of the three test guns meets both of the following:

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

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

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

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

21 12128. As used in this chapter, the “drop safety
22 requirement for handguns” means that at the conclusion
23 of the firing requirements for handguns described in
24 Section 12127, the same certified independent testing
25 laboratory shall subject the same three handguns of the
26 make and model for which certification is sought, to the
27 following test:

28 A primed case (no powder or projectile) shall be
29 inserted into the chamber. For pistols, the slide shall be
30 released, allowing it to move forward under the impetus
31 of the recoil spring, and an empty magazine shall be
32 inserted. For both pistols and revolvers, the weapon shall
33 be placed in a drop fixture capable of dropping the pistol
34 from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the
35 largest side of a slab of solid concrete having minimum
36 dimensions of 7.5 × 15 × 15 cm (3 × 6 × 6 in.). The drop
37 distance shall be measured from the lowermost portion of
38 the weapon to the top surface of the slab. The weapon
39 shall be dropped from a fixture and not from the hand.
40 The weapon shall be dropped in the condition that it



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

8 The following six drops shall be performed:

9 (a) Normal firing position with barrel horizontal.

10 (b) Upside down with barrel horizontal.

11 (c) On grip with barrel vertical.

12 (d) On muzzle with barrel vertical.

13 (e) On either side with barrel horizontal.

14 (f) If there is an exposed hammer or striker, on the
15 rearmost point of that device, otherwise on the rearmost
16 point of the weapon.

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

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

22 12129. Every person who is licensed as a
23 manufacturer of firearms pursuant to Chapter 44
24 (commencing with Section 921) of Title 18 of the United
25 States Code who manufactures firearms in this state, and
26 every person who imports into the state for sale, keeps for
27 sale, or offers or exposes for sale any firearm, shall certify
28 under penalty of perjury and any other remedy provided
29 by law that every model, kind, class, style, or type of pistol,
30 revolver, or other firearm capable of being concealed
31 upon the person that he or she manufactures or imports,
32 keeps, or exposes for sale is not an unsafe handgun as
33 prohibited by this chapter.

34 12130. (a) Any pistol, revolver, or other firearm
35 capable of being concealed upon the person
36 manufactured in this state, imported into the state for
37 sale, kept for sale, or offered or exposed for sale, shall be
38 tested within a reasonable period of time by an
39 independent laboratory certified pursuant to subdivision
40 (b) to determine whether that pistol, revolver, or other

1 firearm capable of being concealed upon the person
2 meets or exceeds the standards defined in Section 12126.

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

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

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

1 sale, or offers or exposes for sale any pistol, revolver, or
2 other firearm capable of being concealed upon the
3 person in this state, an annual fee not exceeding the costs
4 of preparing, publishing, and maintaining the roster
5 pursuant to ~~subdivisions (a) and (b)~~ *subdivision (a) and*
6 *the costs of research and development, report analysis,*
7 *firearms storage, and other program infrastructure costs*
8 *necessary to implement this chapter.*

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

18 12131.5. (a) A firearm shall be deemed to satisfy the
19 requirements of subdivision (a) of Section 12131 if
20 another firearm made by the same manufacturer is
21 already listed and the unlisted firearm differs from the
22 listed firearm only in one or more of the following
23 features:

24 (1) Finish, including, but not limited to, bluing,
25 chrome-plating, oiling, or engraving.

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

27 (3) The shape or texture of the grips, so long as the
28 difference in grip shape or texture does not in any way
29 alter the dimensions, material, linkage, or functioning of
30 the magazine well, the barrel, the chamber, or any of the
31 components of the firing mechanism of the firearm.

32 (4) Any other purely cosmetic feature that does not in
33 any way alter the dimensions, material, linkage, or
34 functioning of the magazine well, the barrel, the
35 chamber, or any of the components of the firing
36 mechanism of the firearm.

37 (b) Any manufacturer seeking to have a firearm listed
38 under this section shall provide to the Department of
39 Justice all of the following:

40 (1) The model designation of the listed firearm.

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

3 (3) A statement, under oath, that each unlisted
4 firearm for which listing is sought differs from the listed
5 firearm only in one or more of the ways identified in
6 subdivision (a) and is in all other respects identical to the
7 listed firearm.

8 (c) The department may, in its discretion and at any
9 time, require a manufacturer to provide to the
10 department any model for which listing is sought under
11 this section, to determine whether the model complies
12 with the requirements of this section.

13 12132. This chapter shall not apply to any of the
14 following:

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

18 (b) The sale, loan, or transfer of any firearm that is
19 exempt from the provisions of subdivision (d) of Section
20 12072 pursuant to any applicable exemption contained in
21 Section 12078, if the sale, loan, or transfer complies with
22 the requirements of that applicable exemption to
23 subdivision (d) of Section 12072.

24 (c) The sale, loan, or transfer of any firearm as
25 described in paragraph (3) of subdivision (b) of Section
26 12125.

27 (d) The delivery of a pistol, revolver, or other firearm
28 capable of being concealed upon the person to a person
29 licensed pursuant to Section 12071 for the purposes of the
30 service or repair of that firearm.

31 (e) The return of a pistol, revolver, or other firearm
32 capable of being concealed upon the person by a person
33 licensed pursuant to Section 12071 to its owner where that
34 firearm was initially delivered in the circumstance set
35 forth in subdivision (d).

36 (f) The return of a pistol, revolver, or other firearm
37 capable of being concealed upon the person by a person
38 licensed pursuant to Section 12071 to its owner where that
39 firearm was initially delivered to that licensee for the



1 purpose of a consignment sale or as collateral for a
2 pawnbroker loan.

3 (g) *The sale, loan, or transfer of any pistol, revolver, or*
4 *other firearm capable of being concealed upon the*
5 *person listed as a curio or relic, as defined in Section*
6 *178.11 of the Code of Federal Regulations.*

7 12133. The provisions of this chapter shall not apply to
8 a single-action revolver that has at least a five-cartridge
9 capacity with a barrel length of not less than three inches,
10 and meets any of the following specifications:

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

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

17 (c) Has an overall length measured parallel to the
18 barrel of at least seven and one-half inches when the
19 handle, frame or receiver, and barrel are assembled and
20 that is currently approved for importation into the United
21 States pursuant to the provisions of paragraph (3) of
22 subsection (d) of Section 925 of Title 18 of the United
23 States Code.

24 SEC. 2. It is the intent of the Legislature that the
25 Department of Justice pursue an internal loan from
26 special fund revenues available to the department to
27 cover startup costs for the program established pursuant
28 to Section 1 of this act. Any loan shall be repaid with the
29 proceeds of fees collected under that program within six
30 months.

31 SEC. 3. No reimbursement is required by this act
32 pursuant to Section 6 of Article XIII B of the California
33 Constitution because the only costs that may be incurred
34 by a local agency or school district will be incurred
35 because this act creates a new crime or infraction,
36 eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section
38 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.

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