

AMENDED IN SENATE APRIL 5, 1999

**SENATE BILL**

**No. 130**

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**Introduced by Senator Hayden**

December 22, 1998

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An act to add ~~Section 12071.05 to~~ Article 4.5 (commencing with Section 12087) to Chapter 4 of Title 2 of Part 4 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 130, as amended, Hayden. Firearms: firearm use-limitation devices.

*Existing law generally regulates the transfer and possession of firearms.*

*This bill would establish the Aroner-Scott-Hayden Firearms Safety Act of 1999 (the act).*

*This bill would require that, effective January 1, 2002, all firearms sold or transferred in this state, or manufactured in this state, be accompanied by a firearms safety device approved by the Department of Justice.*

*This bill would require the Attorney General, to develop minimum safety standards for firearms safety devices that are designed to reduce the risk of unintentional injury by firearms. The bill would also provide that the Attorney General report to the Legislature regarding the standards by January 1, 2001, and that the standards be effective January 1, 2002.*

*The bill would require the Department of Justice, effective January 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, 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 or manufactured in this state, 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 firearms safety device sold in this state after January 1, 2002, that does not conform to specified provisions of the act.

This bill would require that beginning January 1, 2000, each 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 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, or a licensed California dealer permanently ineligible to manufacture, 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 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.*

~~Existing law prohibits a licensed firearms dealer from, among other things, delivering a firearm to a purchaser or transferee unless the firearm is unloaded and securely wrapped or unloaded and in a locked container, the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate and clear evidence of his or her identity and age, and specified waiting periods are satisfied. A violation of these provisions is punishable as a misdemeanor or a felony, and is a basis for which the dealer's license is subject to forfeiture.~~

~~This bill would, commencing July 1, 2000, require any firearm that is sold or transferred by a licensed firearms dealer to include or be accompanied by a firearm use-limitation device, as defined, appropriate for that firearm, if the firearm use-limitation devices are commercially available. This bill would make any violation of those provisions punishable by a fine of not less than \$250, and not exceeding \$1,000. By creating a new crime, the bill would impose a state-mandated local program.~~

~~This bill would declare that the provisions of the bill do not alter the responsibilities of firearm manufacturers at common law. This bill also would declare the provisions of the bill do not prohibit any local ordinance which places more stringent requirements upon firearms dealers regarding firearm use-limitation devices.~~

~~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.—Section 12071.05 is added to the Penal~~  
2 *SECTION 1. Article 4.5 (commencing with Section*  
3 *12087) is added to Chapter 4 of Title 2 of Part 4 of the*  
4 *Penal Code, to read:*

5  
6 *Article 4.5. Firearm Safety Devices*  
7

8 *12087. This article shall be known and may be cited as*  
9 *the “Aroner-Scott-Hayden Firearms Safety Act of 1999.”*

10 *12087.5. The Legislature makes the following*  
11 *findings:*

12 *(a) In the years 1987 to 1996, nearly 2,200 children in*  
13 *the United States under the age of 15 years died in*  
14 *unintentional shootings. In 1996 alone, 138 children were*  
15 *shot and killed unintentionally. Thus, more than 11*  
16 *children every month, or one child every three days,*  
17 *were shot or killed unintentionally in firearms-related*  
18 *incidents.*

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

27 *(c) While the number of unintentional deaths from*  
28 *firearms is an unacceptable toll on America’s children,*  
29 *nearly eight times that number are treated in U.S.*  
30 *hospital emergency rooms each year for nonfatal*  
31 *unintentional gunshot wounds.*

32 *(d) A study of unintentional firearm deaths among*  
33 *children in California found that unintentional gunshot*  
34 *wounds most often involve handguns.*



1 (e) A study in the December 1995 issue of the Archives  
2 of Pediatric and Adolescent Medicine found that children  
3 as young as three years old are strong enough to fire most  
4 commercially available handguns. The study revealed  
5 that 25 percent of three to four year olds and 70 percent  
6 of five to six year olds had sufficient finger strength to fire  
7 59 (92 percent) of the 64 commonly available handguns  
8 referenced in the study.

9 (f) The Government Accounting Office (GAO), in its  
10 March 1991 study, "Accidental Shootings: Many Deaths  
11 and Injuries Caused by Firearms Could be Prevented,"  
12 estimates that 31 percent of accidental deaths caused by  
13 firearms might be prevented by the addition of two safety  
14 devices: a child-resistant safety device that automatically  
15 engages and a device that indicates whether the gun is  
16 loaded. According to the study results, of the 107  
17 unintentional firearms-related fatalities the GAO  
18 examined for the calendar years 1988 and 1989, eight  
19 percent could have been prevented had the firearm been  
20 equipped with a child-resistant safety device. This eight  
21 percent represents instances in which children under the  
22 age of six unintentionally shot and killed themselves or  
23 other persons.

24 (g) Currently, firearms are the only products  
25 manufactured in the United States that are not subject to  
26 minimum safety standards.

27 (h) A 1997 public opinion poll conducted by the  
28 National Opinion Research Center at the University of  
29 Chicago in conjunction with the Johns Hopkins Center  
30 for Gun Policy and Research found that 74 percent of  
31 Americans support safety regulation of the firearms  
32 industry.

33 (i) Some currently available trigger locks and other  
34 similar devices are inadequate to prevent the accidental  
35 discharge of the firearms to which they are attached, or  
36 to prevent children from gaining access to the firearm.

37 12088. Effective January 1, 2001:

38 (a) The Department of Justice shall certify  
39 laboratories to verify compliance with standards for  
40 firearms safety devices set forth in Section 12088.2.



1 (b) The Department of Justice may charge any  
2 laboratory that is seeking certification to test firearms  
3 safety devices a fee not exceeding the costs of  
4 certification.

5 (c) The certified laboratory shall, at the  
6 manufacturer's or dealer's expense, test the firearms  
7 safety device and submit a copy of the final test report  
8 directly to the Department of Justice along with the  
9 firearms safety device. The department shall notify the  
10 manufacturer or dealer of its receipt of the final test  
11 report and the department's determination as to whether  
12 the firearms safety device tested may be sold in this state.

13 (d) On and after July 1, 2001, the Department of  
14 Justice shall compile, publish, and thereafter maintain a  
15 roster listing all of the safety devices that have been tested  
16 by a certified testing laboratory, have been determined  
17 to meet the department's standards for firearms safety  
18 devices and may be sold in this state.

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

21 12088.1. Effective January 1, 2002:

22 (a) All firearms sold or transferred in this state by a  
23 licensed firearms dealer, including private transfers  
24 through a dealer, and all firearms manufactured in this  
25 state, shall include or be accompanied by a firearms safety  
26 device that is listed on the Department of Justice's roster  
27 of approved firearms safety devices.

28 (b) All firearms sold or transferred in this state by a  
29 licensed firearms dealer, including private transfers  
30 through a dealer, and all firearms manufactured in this  
31 state shall bear the warning label or labels prescribed in  
32 Section 12088.3.

33 12088.2. (a) The Attorney General shall develop  
34 regulations to implement a minimum safety standard for  
35 firearms safety devices to significantly reduce the risk of  
36 firearms-related injuries to children 18 years of age and  
37 younger. The final standard shall do all of the following:

38 (1) Address the risk of injury from unintentional  
39 gunshot wounds.



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

3 (3) Include provisions to ensure that all firearms safety  
4 devices are reusable and of adequate quality and  
5 construction to prevent children and unauthorized users  
6 from firing the firearm and to ensure that these devices  
7 cannot be readily removed from the firearm except by an  
8 authorized adult user utilizing the key, combination, or  
9 other method of access intended by the manufacturer of  
10 the device.

11 (4) Include additional provisions as appropriate.

12 (b) The Attorney General shall consult, for the  
13 purposes of guidance in development of the standard, test  
14 protocols such as those described in Title 16  
15 (commencing with Part 1700) of the Code of Federal  
16 Regulations, relating to poison prevention packaging  
17 standards. The Attorney General shall also give  
18 appropriate consideration to the use of devices that are  
19 not detachable, but are permanently installed and  
20 incorporated into the design of a firearm. The Attorney  
21 General shall adopt and issue regulations implementing  
22 a final standard not later than January 1, 2001. The  
23 Attorney General shall report to the Legislature on these  
24 standards by January 1, 2001. The final standard shall be  
25 effective January 1, 2002.

26 12088.3. (a) The packaging of any firearm and any  
27 descriptive materials that accompany any firearm sold or  
28 transferred in this state, or delivered for sale in this state,  
29 by any licensed manufacturer or licensed dealer, shall  
30 bear a label containing the following warning statement:  
31



WARNING

*Children are attracted to and can operate firearms that can cause severe injuries or death.*

*Prevent child access by always keeping handguns locked away and unloaded.*

*A yellow triangle containing an exclamation mark shall appear immediately before the word "Warning" on the label.*

*(b) If the firearm is sold or transferred without accompanying packaging, the warning label shall be affixed to the firearm itself by a method to be prescribed by regulation of the Attorney General.*

*(c) The warning statement required under subdivisions (a) and (b) shall be:*

*(1) Displayed in its entirety on the principal display panel of the firearm's package, and on any descriptive materials that accompany the firearm.*

*(2) Displayed in both English and Spanish in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or descriptive materials in a manner consistent with Part 1500.121 of Title 16, of the Code of Federal Regulations, or successor regulations thereto.*

*12088.4. If at any time the Attorney General determines that a firearm or firearms safety device subject to the provisions of this article and sold after January 1, 2002, does not conform with the standards and warnings required by Sections 12088.1, 12088.2, and 12088.3, the Attorney General may order the recall and replacement of the firearm or firearms safety device by the licensed manufacturer, or licensed firearms dealer, or order that the licensed manufacturer or licensed firearms dealer bring the firearm or firearms safety device into conformity with those requirements. If only the firearms safety device is recalled, the licensed manufacturer of the firearms safety device or licensed firearms dealer shall immediately provide a conforming replacement.*





1 12088.5. Beginning January 1, 2000, each law  
2 enforcement agency investigating an incident shall  
3 report to the Attorney General any information which  
4 reasonably supports the conclusions that:

5 (a) A child 18 years of age or younger suffered an  
6 unintentional or self-inflicted gunshot wound inflicted by  
7 a firearm that was sold or transferred in this state, or  
8 manufactured in this state; and,

9 (b) Whether as a result of that incident the child died,  
10 suffered serious injury, or was treated for an injury by a  
11 medical professional.

12 12088.6. Any violation of Section 12088.1 or Section  
13 12088.3 is punishable by a fine of one thousand dollars  
14 (\$1,000). On the second violation of any of those sections,  
15 the licensed firearm manufacturer shall be ineligible to  
16 manufacture, or the licensed firearm dealer shall be  
17 ineligible to sell, firearms in this state for 30 days, and shall  
18 be punished by a fine of one thousand dollars (\$1,000). On  
19 the third violation of any of those sections, a firearm  
20 manufacturer shall be permanently ineligible to  
21 manufacture firearms in this state. On the third violation  
22 of any of those sections, a licensed firearm dealer shall be  
23 permanently ineligible to sell firearms in this state.

24 12088.7. Compliance with the requirements set forth  
25 in this article shall not relieve any person from liability to  
26 any other person as may be imposed pursuant to common  
27 law, statutory law, or local ordinance.

28 12088.8. (a) This article does not apply to the  
29 commerce of any firearm defined as an “antique firearm”  
30 in paragraph (16) of subsection (a) of Section 921 of Title  
31 18 of the United States Code.

32 (b) This article shall not apply to the commerce of any  
33 firearm intended to be used by a full-time, paid peace  
34 officer as defined in Chapter 4.5 (commencing with  
35 Section 830) of Title 3 of Part 2.

36 SEC. 2. No reimbursement is required by this act  
37 pursuant to Section 6 of Article XIII B of the California  
38 Constitution because the only costs that may be incurred  
39 by a local agency or school district will be incurred  
40 because this act creates a new crime or infraction,



1 *eliminates a crime or infraction, or changes the penalty*  
2 *for a crime or infraction, within the meaning of Section*  
3 *17556 of the Government Code, or changes the definition*  
4 *of a crime within the meaning of Section 6 of Article*  
5 *XIII B of the California Constitution.*

6 ~~Code, to read:~~

7 ~~12071.05. (a) Commencing July 1, 2000, any firearm~~  
8 ~~sold or transferred by a person licensed under Section~~  
9 ~~12071 shall include or be accompanied by a firearm~~  
10 ~~use-limitation device appropriate for that firearm, if the~~  
11 ~~firearm use-limitation devices are commercially~~  
12 ~~available.~~

13 ~~(b) For the purposes of this section, “firearm~~  
14 ~~use-limitation device” means a safety mechanism that is~~  
15 ~~designed to hinder the use of a firearm by unauthorized~~  
16 ~~users, and includes, but is not limited to, trigger locks,~~  
17 ~~combination handle locks, gun safes, and solenoid~~  
18 ~~use-limitation devices. Firearm use-limitation devices~~  
19 ~~shall meet the following conditions:~~

20 ~~(1) Be reusable.~~

21 ~~(2) Require, except in the case of a gun safe, (A) a~~  
22 ~~series of multiple motions in order to fire the firearm, in~~  
23 ~~addition to the release of a safety catch and the~~  
24 ~~movement of a trigger; or (B) a detachable part, such as~~  
25 ~~a key or an electronic signal transmitter, be placed in or~~  
26 ~~near the firearm use-limitation device in order to remove~~  
27 ~~or disable it; or (C) a combination of no less than three~~  
28 ~~numbers, or letters of the alphabet, which combination~~  
29 ~~must be set on the firearm use-limitation device before~~  
30 ~~the firearm can be operated.~~

31 ~~(e) Each violation of this section is punishable by a fine~~  
32 ~~of not less than two hundred fifty dollars (\$250) and not~~  
33 ~~exceeding one thousand dollars (\$1,000).~~

34 ~~(d) Nothing in this section shall alter the~~  
35 ~~responsibilities of firearm manufacturers at common law.~~

36 ~~(e) Nothing in this section shall require or prohibit any~~  
37 ~~local ordinance which places more stringent~~  
38 ~~requirements upon firearms dealers regarding firearm~~  
39 ~~use-limitation devices.~~



1 ~~(f) Nothing in this section shall be construed to amend~~  
2 ~~Section 53071 of the Government Code.~~

3 ~~SEC. 2. No reimbursement is required by this act~~  
4 ~~pursuant to Section 6 of Article XIII B of the California~~  
5 ~~Constitution because the only costs that may be incurred~~  
6 ~~by a local agency or school district will be incurred~~  
7 ~~because this act creates a new crime or infraction,~~  
8 ~~eliminates a crime or infraction, or changes the penalty~~  
9 ~~for a crime or infraction, within the meaning of Section~~  
10 ~~17556 of the Government Code, or changes the definition~~  
11 ~~of a crime within the meaning of Section 6 of Article~~  
12 ~~XIII B of the California Constitution.~~

13 ~~Notwithstanding Section 17580 of the Government~~  
14 ~~Code, unless otherwise specified, the provisions of this act~~  
15 ~~shall become operative on the same date that the act~~  
16 ~~takes effect pursuant to the California Constitution.~~

