

AMENDED IN SENATE APRIL 19, 1999

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 130

Introduced by Senator Hayden

(Principal coauthors: Assembly Members Scott and Aroner)

December 22, 1998

An act to add 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, *except as provided*, 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, *as specified*.

This bill would require that beginning January 1, 2000, each law enforcement agency investigating an incident to report specified information to the ~~Attorney General~~ *State Department of Health Services* 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.

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

4
5 Article 4.5. Firearm Safety Devices
6

7 12087. This article shall be known and may be cited as
8 the “Aroner-Scott-Hayden Firearms Safety Act of 1999.”

9 12087.5. The Legislature makes the following
10 findings:

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

18 (b) The United States leads the industrialized world in
19 the rates of children and youth lost to unintentional,
20 firearms-related death. A 1997 study from the federal
21 Centers for Disease Control and Prevention reveals that
22 for unintentional firearm-related deaths for children



1 under the age of 15, the rate in the United States was nine
2 times higher than in 25 other industrialized countries
3 combined.

4 (c) While the number of unintentional deaths from
5 firearms is an unacceptable toll on America's children,
6 nearly eight times that number are treated in U.S.
7 hospital emergency rooms each year for nonfatal
8 unintentional gunshot wounds.

9 (d) A study of unintentional firearm deaths among
10 children in California found that unintentional gunshot
11 wounds most often involve handguns.

12 (e) A study in the December 1995 issue of the Archives
13 of Pediatric and Adolescent Medicine found that children
14 as young as three years old are strong enough to fire most
15 commercially available handguns. The study revealed
16 that 25 percent of three to four year olds and 70 percent
17 of five to six year olds had sufficient finger strength to fire
18 59 (92 percent) of the 64 commonly available handguns
19 referenced in the study.

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

35 (g) Currently, firearms are the only products
36 manufactured in the United States that are not subject to
37 minimum safety standards.

38 (h) A 1997 public opinion poll conducted by the
39 National Opinion Research Center at the University of
40 Chicago in conjunction with the Johns Hopkins Center



1 for Gun Policy and Research found that 74 percent of
2 Americans support safety regulation of the firearms
3 industry.

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

8 12088. Effective January 1, 2001:

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

12 (b) The Department of Justice may charge any
13 laboratory that is seeking certification to test firearms
14 safety devices a fee not exceeding the costs of
15 certification.

16 (c) The certified laboratory shall, at the
17 manufacturer's or dealer's expense, test the firearms
18 safety device and submit a copy of the final test report
19 directly to the Department of Justice along with the
20 firearms safety device. The department shall notify the
21 manufacturer or dealer of its receipt of the final test
22 report and the department's determination as to whether
23 the firearms safety device tested may be sold in this state.

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

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

32 12088.1. Effective January 1, 2002:

33 (a) All firearms sold or transferred in this state by a
34 licensed firearms dealer, including private transfers
35 through a dealer, and all firearms manufactured in this
36 state, shall include or be accompanied by a firearms safety
37 device that is listed on the Department of Justice's roster
38 of approved firearms safety devices.

39 (b) All firearms sold or transferred in this state by a
40 licensed firearms dealer, including private transfers



1 through a dealer, and all firearms manufactured in this
2 state shall ~~bear the warning label or labels prescribed be~~
3 *accompanied with warning language or labels as*
4 *described in Section 12088.3.*

5 *(c) The sale or transfer of a firearm shall be exempt*
6 *from subdivision (a) if both of the following apply:*

7 *(1) The purchaser or transferee owns a gun safe that*
8 *meets the standards set forth in Section 12088.2. Gun safes*
9 *shall not be required to be tested, and therefore may*
10 *meet the standards without appearing on the*
11 *Department of Justice roster.*

12 *(2) The purchaser or transferee presents an original*
13 *receipt for purchase of the gun safe, or other proof of*
14 *purchase and ownership of the gun safe as authorized by*
15 *the Attorney General, to the firearms dealer. The dealer*
16 *shall maintain a copy of this receipt or proof of purchase*
17 *with the dealers' record of sales of firearms.*

18 *(d) The sale or transfer of a firearm shall be exempt*
19 *from subdivision (a) if the following apply:*

20 *(1) The purchaser or transferee purchases an*
21 *approved safety device from another store no more than*
22 *30 days prior to the day the firearm is picked up.*

23 *(2) The purchaser or transferee presents the approved*
24 *safety device to the firearms dealer when picking up the*
25 *firearm.*

26 *(3) The purchaser or transferee presents an original*
27 *receipt to the firearms dealer which shows the date of*
28 *purchase, the name, and the model number of the safety*
29 *device.*

30 *(4) The firearms dealer verifies that the requirements*
31 *in (1) to (3), inclusive, have been satisfied.*

32 *(5) The firearms dealer maintains a copy of the receipt*
33 *along with the dealers' record of sales of firearms.*

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



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

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

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

14 (4) Include additional provisions as appropriate.

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

31 12088.3. (a) The packaging of any firearm and any
32 descriptive materials that accompany any firearm sold or
33 transferred in this state, or delivered for sale in this state,
34 by any licensed manufacturer or licensed dealer, shall
35 bear a label containing the following warning statement:
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WARNING

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

Prevent child access by always keeping ~~handguns~~ guns locked away and unloaded *when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison.*

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 *or notice* 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, subdivision (a) of Section 12088.1 and Section 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~~



1 ~~safety device is recalled, the licensed manufacturer of the~~
2 ~~firearms safety device or licensed firearms dealer shall~~
3 ~~immediately provide a conforming replacement. If the~~
4 ~~firearms safety device cannot be separated from the~~
5 ~~firearm without damaging the firearm, the Attorney~~
6 ~~General may order the recall and replacement of the~~
7 ~~firearm. If the firearms safety devices can be separated~~
8 ~~and reattached to the firearm without damaging the~~
9 ~~firearm, the licensed manufacturer or licensed firearms~~
10 ~~dealer shall immediately provide a conforming~~
11 ~~replacement.~~

12 12088.5. Beginning January 1, 2000, each *lead* law
13 enforcement agency investigating an incident shall
14 report to the ~~Attorney General~~ *State Department of*
15 *Health Services* any information which reasonably
16 supports the ~~conclusions~~ *conclusion* that:

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

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

24 12088.6. Any violation of Section 12088.1 or Section
25 12088.3 is punishable by a fine of one thousand dollars
26 (\$1,000). On the second violation of any of those sections,
27 the licensed firearm manufacturer shall be ineligible to
28 manufacture, or the licensed firearm dealer shall be
29 ineligible to sell, firearms in this state for 30 days, and shall
30 be punished by a fine of one thousand dollars (\$1,000). On
31 the third violation of any of those sections, a firearm
32 manufacturer shall be permanently ineligible to
33 manufacture firearms in this state. On the third violation
34 of any of those sections, a licensed firearm dealer shall be
35 permanently ineligible to sell firearms in this state.

36 12088.7. Compliance with the requirements set forth
37 in this article shall not relieve any person from liability to
38 any other person as may be imposed pursuant to common
39 law, statutory law, or local ordinance.



1 12088.8. (a) This article does not apply to the
2 commerce of any firearm defined as an “antique firearm”
3 in paragraph (16) of subsection (a) of Section 921 of Title
4 18 of the United States Code.

5 (b) This article shall not apply to the commerce of any
6 firearm intended to be used by a ~~full-time, paid~~ *salaried,*
7 *full-time* peace officer as defined in Chapter 4.5
8 (commencing with Section 830) of Title 3 of Part 2 *for*
9 *purposes of law enforcement. Nothing in this article shall*
10 *preclude local governments, local agencies, or state law*
11 *enforcement agencies from requiring their peace officers*
12 *to store their firearms in gun safes or attach firearms*
13 *safety devices to those firearms.*

14 SEC. 2. No reimbursement is required by this act
15 pursuant to Section 6 of Article XIII B of the California
16 Constitution because the only costs that may be incurred
17 by a local agency or school district will be incurred
18 because this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition
22 of a crime within the meaning of Section 6 of Article
23 XIII B of the California Constitution.

