

AMENDED IN ASSEMBLY JUNE 24, 1999

AMENDED IN SENATE MAY 12, 1999

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 1 of Title 2 of Part 4 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 130, as amended, Hayden. Firearms: safety 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, not later than January 1, 2000, to begin development of 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 gun safe 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 each law enforcement agency investigating an incident to report specified information to the State Department of Health Services in connection with unintentional or self-inflicted 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, 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 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 bill would authorize the Department of Justice to require a firearm dealer to charge a firearm purchaser *or transferee* a fee not to exceed \$1 for each firearm ~~purchased transaction~~ for the purpose of supporting various department program costs ~~related to firearms safety and registration~~, 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 1 of Title 2 of Part 4 of the
3 Penal Code, to read:

4
5 Article 4.5. Firearms 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,



1 were shot or killed unintentionally in firearms-related
2 incidents.

3 (b) The United States leads the industrialized world in
4 the rates of children and youth lost to unintentional,
5 firearms-related death. A 1997 study from the federal
6 Centers for Disease Control and Prevention reveals that
7 for unintentional firearm-related deaths for children
8 under the age of 15, the rate in the United States was nine
9 times higher than in 25 other industrialized countries
10 combined.

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

16 (d) A study of unintentional firearm deaths among
17 children in California found that unintentional gunshot
18 wounds most often involve handguns.

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

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



1 age of six unintentionally shot and killed themselves or
2 other persons.

3 (g) Currently, firearms are the only products
4 manufactured in the United States that are not subject to
5 minimum safety standards.

6 (h) A 1997 public opinion poll conducted by the
7 National Opinion Research Center at the University of
8 Chicago in conjunction with the Johns Hopkins Center
9 for Gun Policy and Research found that 74 percent of
10 Americans support safety regulation of the firearms
11 industry.

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

16 12088. Effective January 1, 2001:

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

20 (b) The Department of Justice may charge any
21 laboratory that is seeking certification to test firearms
22 safety devices a fee not exceeding the costs of
23 certification, including costs associated with the
24 development and approval of regulations and standards
25 pursuant to Section 12088.2.

26 (c) The certified laboratory shall, at the
27 manufacturer's or dealer's expense, test the firearms
28 safety device and submit a copy of the final test report
29 directly to the Department of Justice along with the
30 firearms safety device. The department shall notify the
31 manufacturer or dealer of its receipt of the final test
32 report and the department's determination as to whether
33 the firearms safety device tested may be sold in this state.

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



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

3 12088.1. Effective January 1, 2002:

4 (a) All firearms sold or transferred in this state by a
5 licensed firearms dealer, including private transfers
6 through a dealer, and all firearms manufactured in this
7 state, shall include or be accompanied by a firearms safety
8 device that is listed on the Department of Justice's roster
9 of approved firearms safety devices.

10 (b) All firearms sold or transferred in this state by a
11 licensed firearms dealer, including private transfers
12 through a dealer, and all firearms manufactured in this
13 state shall be accompanied with warning language or
14 labels as described in Section 12088.3.

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

17 (1) The purchaser or transferee owns a gun safe that
18 meets the standards set forth in Section 12088.2. Gun safes
19 shall not be required to be tested, and therefore may
20 meet the standards without appearing on the
21 Department of Justice roster.

22 (2) The purchaser or transferee presents an original
23 receipt for purchase of the gun safe, or other proof of
24 purchase ~~and~~ or ownership of the gun safe as authorized
25 by the Attorney General, to the firearms dealer. The
26 dealer shall maintain a copy of this receipt or proof of
27 purchase with the dealers' record of sales of firearms.

28 (d) The sale or transfer of a firearm shall be exempt
29 from subdivision (a) if all of the following apply:

30 (1) The purchaser or transferee purchases an
31 approved safety device ~~from another store no more than~~
32 ~~30 days prior to the day the firearm is picked up. no more~~
33 *than 30 days prior to the day the purchaser or transferee*
34 *takes possession of the firearm.*

35 (2) The purchaser or transferee presents the approved
36 safety device to the firearms dealer when picking up the
37 firearm.

38 (3) The purchaser or transferee presents an original
39 receipt to the firearms dealer which shows the date of



1 purchase, the name, and the model number of the safety
2 device.

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

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

7 12088.2. (a) No later than January 1, 2000, the
8 Attorney General shall commence development of
9 regulations to implement a minimum safety standard for
10 firearms safety devices and gun safes to significantly
11 reduce the risk of firearms-related injuries to children ~~48~~
12 17 years of age and younger. The final standard shall do
13 all of the following:

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

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

18 (3) Include provisions to ensure that all firearms safety
19 devices and gun safes are reusable and of adequate
20 quality and construction to prevent children and
21 unauthorized users from firing the firearm and to ensure
22 that these devices cannot be readily removed from the
23 firearm or that the firearm cannot be readily removed
24 from the gun safe except by an authorized user utilizing
25 the key, combination, or other method of access intended
26 by the manufacturer of the device.

27 (4) Include additional provisions as appropriate.

28 (b) The Attorney General may consult, for the
29 purposes of guidance in development of the standards,
30 test protocols such as those described in Title 16
31 (commencing with Part 1700) of the Code of Federal
32 Regulations, relating to poison prevention packaging
33 standards. These protocols may be consulted to provide
34 suggestions for potential methods to utilize in developing
35 standards and shall serve as guidance only. The Attorney
36 General shall also give appropriate consideration to the
37 use of devices that are not detachable, but are
38 permanently installed and incorporated into the design
39 of a firearm. The Attorney General shall adopt and issue
40 regulations implementing a final standard not later than



1 January 1, 2001. The Attorney General shall report to the
2 Legislature on these standards by January 1, 2001. The
3 final standard shall be effective January 1, 2002.

4 12088.3. (a) The packaging of any firearm and any
5 descriptive materials that accompany any firearm sold or
6 transferred in this state, or delivered for sale in this state,
7 by any licensed manufacturer, or licensed dealer, shall
8 bear a label containing the following warning statement:

9

10 WARNING

11

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

14

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

19

20 A yellow triangle containing an exclamation mark shall
21 appear immediately before the word “Warning” on the
22 label.

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

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

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

32 (2) Displayed in both English and Spanish in
33 conspicuous and legible type in contrast by typography,
34 layout, or color with other printed matter on that package
35 or descriptive materials in a manner consistent with Part
36 1500.121 of Title 16, of the Code of Federal Regulations,
37 or successor regulations thereto.

38 12088.4. (a) If at any time the Attorney General
39 determines that a gun safe or firearms safety device
40 subject to the provisions of this article and sold after



1 January 1, 2002, does not conform with the standards
2 required by subdivision (a) of Section 12088.1 or Section
3 12088.2, the Attorney General may order the recall and
4 replacement of the gun safe or firearms safety device, or
5 order that the gun safe or firearm safety device be
6 brought into conformity with those requirements. If the
7 firearms safety device cannot be separated from the
8 firearm without damaging the firearm, the Attorney
9 General may order the recall and replacement of the
10 firearm. If the firearms safety device can be separated
11 and reattached to the firearm without damaging the
12 firearm, the licensed manufacturer or licensed firearms
13 dealer shall immediately provide a conforming
14 replacement as instructed by the Attorney General.

15 12088.5. ~~(a)~~ Each lead law enforcement agency
16 investigating an incident shall report to the State
17 Department of Health Services any information obtained
18 ~~by the manufacturer, importer, or dealer~~ which
19 reasonably supports the conclusion that:

20 ~~(1)~~

21 (a) A child 18 years of age or younger suffered an
22 unintentional or self-inflicted gunshot wound inflicted by
23 a firearm that was sold or transferred in this state, or
24 manufactured in this state.

25 ~~(2)~~

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

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



1 12088.7. Compliance with the requirements set forth
2 in this article shall not relieve any person from liability to
3 any other person as may be imposed pursuant to common
4 law, statutory law, or local ordinance.

5 12088.8. (a) This article does not apply to the
6 commerce of any firearm defined as an “antique firearm”
7 in paragraph (16) of subsection (a) of Section 921 of Title
8 18 of the United States Code.

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

18 12088.9. (a) The Department of Justice may require
19 each dealer to charge each firearm purchaser *or*
20 *transferee* a fee not to exceed one dollar (\$1) for each
21 firearm ~~purchased~~ *transaction*. The fee shall be for the
22 purpose of supporting department program costs related
23 to ~~providing for safe firearms and related registration~~
24 ~~activities~~ *this act*, including the establishment,
25 maintenance, and upgrading of related data base systems
26 and public rosters.

27 (b) There is hereby created within the General Fund
28 the Firearm Safety Account. Revenue from the fee
29 imposed by subdivision (a) shall be deposited into the
30 Firearm Safety Account and shall be available for
31 expenditure by the Department of Justice upon
32 appropriation by the Legislature. Expenditures from the
33 the Firearm Safety Account shall be limited to program
34 expenditures as defined by subdivision (a).

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



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

O

