

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN ASSEMBLY JUNE 21, 2012

AMENDED IN ASSEMBLY MAY 22, 2012

AMENDED IN ASSEMBLY JULY 14, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 249

Introduced by Senator Yee
(Coauthor: Senator De León)
(Coauthor: Assembly Member Portantino)

February 10, 2011

An act to amend Section 31100 of, to amend, repeal, and add Section 30800 of, and to add Sections 30527 and 30618 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as amended, Yee. Firearms: assault weapon conversion kits.

Existing law, with certain exceptions, prohibits the possession of an assault weapon, as defined, and makes violations subject to criminal penalties.

This bill would, commencing July 1, 2013, and with certain exceptions, prohibit any person from importing, making, selling, loaning, transferring, or possessing any conversion kit, as defined, designed *solely and exclusively* to convert certain firearms with a fixed magazine into firearms with the capacity to accept a detachable magazine and other features making the firearm an assault weapon and would make violations subject to criminal penalties. By creating new crimes, this bill would impose a state-mandated local program.

Existing law makes possession of an assault weapon a public nuisance, authorizes the Attorney General, district attorney, or city attorney to bring a civil action to enjoin possession of the weapon, authorizes imposition of a civil fine, and, with certain exceptions, requires disposition of the weapon by sale at public auction or by destruction.

This bill would, commencing July 1, 2013, make possession of a conversion kit a public nuisance, would authorize a civil action to enjoin possession of a conversion kit, would authorize imposition of a civil fine, and, with certain exceptions, would, similarly, require disposition of the conversion kit.

Existing law authorizes a person to arrange in advance to relinquish an assault weapon to a police or sheriff's department.

This bill would authorize a person to arrange in advance to relinquish a conversion kit to a police or sheriff's department.

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 30527 is added to the Penal Code, to
2 read:

3 30527. (a) As used in this chapter a "conversion kit" means
4 either of the following:

5 ~~(1) Any combination of parts that, when affixed to a firearm~~
6 ~~with a fixed magazine, are designed and intended to convert that~~
7 ~~firearm into an assault weapon as defined by one of the following:~~

8 ~~(A) Paragraph (1) of subdivision (a) of Section 30515.~~

9 ~~(B) Paragraph (4) of subdivision (a) of Section 30515.~~

10 ~~(C) Paragraph (7) of subdivision (a) of Section 30515.~~

11 ~~(2) Any~~ any part that, when affixed to a firearm with a fixed
12 magazine, is designed solely and exclusively to convert that firearm
13 into an assault weapon as defined by one of the following:

14 ~~(A)~~

15 ~~(1)~~ Paragraph (1) of subdivision (a) of Section 30515.

16 ~~(B)~~

1 (2) Paragraph (4) of subdivision (a) of Section 30515.

2 ~~(C)~~

3 (3) Paragraph (7) of subdivision (a) of Section 30515.

4 (b) This section shall become operative on July 1, 2013.

5 SEC. 2. Section 30618 is added to the Penal Code, to read:

6 30618. (a) No person shall import into this state, make, sell,
7 loan, transfer, or possess a conversion kit.

8 (b) For purposes of this article, if more than one conversion kit
9 is involved in any violation of this article, there shall be a distinct
10 and separate offense for each violation.

11 (c) The provisions of this section are cumulative and shall not
12 be construed as restricting the application of any other law.
13 However, an act or omission punishable in different ways by
14 different provisions of law shall not be punished under more than
15 one provision.

16 (d) Subdivision (a) shall not apply to or affect any of the
17 following:

18 (1) The sale to, transfer to, or loan to, importation of, or
19 possession of a conversion kit by the Department of Justice, police
20 department, sheriffs' offices, marshals' offices, the Department
21 of Corrections and Rehabilitation, the Department of the California
22 Highway Patrol, district attorneys' offices, the Department of Fish
23 and Game, the Department of Parks and Recreation, or the military
24 or naval forces of this state or of the United States, or any federal
25 law enforcement agency for use in the discharge of their official
26 duties.

27 (2) The transfer by or loan by the entities listed in paragraph
28 (1) of a conversion kit to sworn peace officer members of those
29 agencies for law enforcement purposes.

30 (3) The possession of conversion kits by sworn peace officer
31 members of those agencies specified in paragraph (1) for law
32 enforcement purposes.

33 (4) The manufacture of, possession of, or importation of a
34 conversion kit by any person who is issued a permit pursuant to
35 Section 31005.

36 (5) The sale by, loan of, or transfer of a conversion kit by a
37 person who is issued a permit pursuant to Section 31005 to any of
38 the following:

39 (A) Exempt entities listed in paragraph (1).

1 (B) Entities and persons who have been issued permits pursuant
2 to Section 31005.

3 (C) Federal military and law enforcement agencies.

4 (D) Law enforcement and military agencies of other states.

5 (E) Foreign governments and agencies approved by the United
6 States State Department.

7 (6) A person who is the executor or administrator of an estate
8 that includes a conversion kit that is possessed in accordance with,
9 and disposed of as authorized by, the probate court, if the
10 disposition is otherwise permitted by this section.

11 (7) The possession of and sale or transfer of a conversion kit
12 by a person incident to relinquishing the conversion kit pursuant
13 to Section 31100.

14 (8) The transfer by a person authorized to possess a conversion
15 kit by this section to any licensed gun dealer for the purposes of
16 servicing or repair from any person who is legally entitled to
17 possess it pursuant to this section.

18 (9) The possession of a conversion kit by any licensed gun dealer
19 who received the conversion kit pursuant to paragraph (8).

20 (10) The transfer of possession of a conversion kit received by
21 any licensed gun dealer pursuant to paragraph (9) to a gunsmith
22 for purposes of accomplishing service or repair of that conversion
23 kit. A transfer is permissible only to the following persons:

24 (A) A gunsmith who is in the dealer's employ.

25 (B) A gunsmith with whom the dealer has contracted for
26 gunsmithing services.

27 (11) The transfer of possession of any conversion kit by any
28 person referred to in paragraph (10) to either the licensed gun
29 dealer from whom it was received or to a person otherwise referred
30 to in paragraph (10).

31 (12) The return of any conversion kit initially received by any
32 licensed gun dealer pursuant to this section to the person from
33 whom he or she received it if that recipient is legally entitled to
34 possess that conversion kit pursuant to this section.

35 (13) The possession of a conversion kit by the registered owner
36 of an assault weapon if the conversion kit is possessed at that
37 person's residence, place of business, or other property owned by
38 that person.

39 (e) A violation of this section is punishable as follows:

1 (1) Where the person imports into this state, makes, sells, loans,
2 or transfers a conversion kit, that person shall be punished by a
3 fine of one thousand dollars (\$1,000), imprisonment in a county
4 jail for a period not to exceed one year, or by both that fine and
5 imprisonment.

6 (2) In all cases not specified in paragraph (1), as a misdemeanor.

7 (f) This section shall become operative on July 1, 2013.

8 SEC. 3. Section 30800 of the Penal Code is amended to read:

9 30800. (a) (1) Except as provided in Article 2 (commencing
10 with Section 30600), possession of any assault weapon or of any
11 .50 BMG rifle in violation of this chapter is a public nuisance,
12 solely for purposes of this section and subdivision (c) of Section
13 18005.

14 (2) The Attorney General, any district attorney, or any city
15 attorney, may, in lieu of criminal prosecution, bring a civil action
16 or reach a civil compromise in any superior court to enjoin the
17 possession of the assault weapon or .50 BMG rifle that is a public
18 nuisance.

19 (b) Upon motion of the Attorney General, district attorney, or
20 city attorney, a superior court may impose a civil fine not to exceed
21 three hundred dollars (\$300) for the first assault weapon or .50
22 BMG rifle deemed a public nuisance pursuant to subdivision (a)
23 and up to one hundred dollars (\$100) for each additional assault
24 weapon or .50 BMG rifle deemed a public nuisance pursuant to
25 subdivision (a).

26 (c) Any assault weapon or .50 BMG rifle deemed a public
27 nuisance under subdivision (a) shall be destroyed in a manner so
28 that it may no longer be used, except upon a finding by a court, or
29 a declaration from the Department of Justice, district attorney, or
30 city attorney stating that the preservation of the assault weapon or
31 .50 BMG rifle is in the interest of justice.

32 (d) Upon conviction of any misdemeanor or felony involving
33 the illegal possession or use of an assault weapon, the assault
34 weapon shall be deemed a public nuisance and disposed of pursuant
35 to subdivision (c) of Section 18005.

36 (e) This section shall become inoperative on July 1, 2013, and,
37 as of January 1, 2014, is repealed, unless a later enacted statute,
38 that becomes operative on or before January 1, 2014, deletes or
39 extends the dates on which it becomes inoperative and is repealed.

40 SEC. 4. Section 30800 is added to the Penal Code, to read:

1 30800. (a) (1) Except as provided in Article 2 (commencing
2 with Section 30600), possession of any assault weapon, any .50
3 BMG rifle, or any conversion kit in violation of this chapter is a
4 public nuisance, solely for purposes of this section and subdivision
5 (c) of Section 18005.

6 (2) The Attorney General, any district attorney, or any city
7 attorney may, in lieu of criminal prosecution, bring a civil action
8 or reach a civil compromise in any superior court to enjoin the
9 possession of the assault weapon, .50 BMG rifle, or conversion
10 kit that is a public nuisance.

11 (b) (1) Upon motion of the Attorney General, district attorney,
12 or city attorney, a superior court may impose a civil fine not to
13 exceed three hundred dollars (\$300) for the first assault weapon
14 or .50 BMG rifle deemed a public nuisance pursuant to subdivision
15 (a) and up to one hundred dollars (\$100) for each additional assault
16 weapon or .50 BMG rifle deemed a public nuisance pursuant to
17 subdivision (a).

18 (2) Upon motion of the Attorney General, district attorney, or
19 city attorney, a superior court may impose a civil fine not to exceed
20 one hundred dollars (\$100) for the first conversion kit deemed to
21 be a public nuisance pursuant to subdivision (a) and up to fifty
22 dollars (\$50) for each additional conversion kit deemed to be a
23 public nuisance pursuant to subdivision (a).

24 (c) Any assault weapon, .50 BMG rifle, or conversion kit
25 deemed a public nuisance under subdivision (a) shall be destroyed
26 in a manner so that it may no longer be used, except upon a finding
27 by a court, or a declaration from the Department of Justice, district
28 attorney, or city attorney stating that the preservation of the assault
29 weapon, .50 BMG rifle, or conversion kit is in the interest of
30 justice.

31 (d) Upon conviction of any misdemeanor or felony involving
32 the illegal possession or use of an assault weapon, the assault
33 weapon shall be deemed a public nuisance and disposed of pursuant
34 to subdivision (c) of Section 18005.

35 (e) Upon conviction of any misdemeanor involving the illegal
36 possession or use of a conversion kit, the conversion kit shall be
37 deemed a public nuisance and disposed of pursuant to subdivision
38 (c) of Section 18005.

39 (f) This section shall become operative on July 1, 2013.

40 SEC. 5. Section 31100 of the Penal Code is amended to read:

1 31100. Any individual may arrange in advance to relinquish
2 an assault weapon, a .50 BMG rifle, or a conversion kit to a police
3 or sheriff's department. The assault weapon or .50 BMG rifle shall
4 be transported in accordance with Sections 16850 and 25610.

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