

AMENDED IN ASSEMBLY JUNE 13, 2011

AMENDED IN SENATE APRIL 13, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 798

Introduced by Senator De León

February 18, 2011

An act to amend Section 16700 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 798, as amended, De León. Firearms: BB devices: imitation firearms.

Existing law defines "BB device" to mean any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, or any spot marker gun. Existing law defines "imitation firearm" to mean any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm but provides that a BB device is not an imitation firearm in regard to a provision imposing a civil fine on the sale, manufacture, transportation, receipt, or distribution of imitation firearms for commercial purposes.

This bill would make the provision imposing a civil fine on the sale, manufacture, transportation, receipt, or distribution of imitation firearms for commercial purposes applicable to BB devices.

The bill would also provide that a spot marker gun that expels a projectile of greater than 10 mm caliber would not be an imitation firearm in regard to the provision imposing a civil fine on the sale,

manufacture, transportation, receipt, or distribution of imitation firearms for commercial purposes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16700 of the Penal Code is amended to
2 read:
3 16700. (a) As used in this part, “imitation firearm” means any
4 BB device, toy gun, replica of a firearm, or other device that is so
5 substantially similar in coloration and overall appearance to an
6 existing firearm as to lead a reasonable person to perceive that the
7 device is a firearm.
8 (b) As used in Section 20165, “imitation firearm” does not
9 include any of the following:
10 (1) A nonfiring collector’s replica that is historically significant,
11 and is offered for sale in conjunction with a wall plaque or
12 presentation case.
13 (2) *A spot marker gun which expels a projectile that is greater*
14 *than 10 mm caliber.*
15 (2)
16 (3) A device where the entire exterior surface of the device is
17 white, bright red, bright orange, bright yellow, bright green, bright
18 blue, bright pink, or bright purple, either singly or as the
19 predominant color in combination with other colors in any pattern,
20 as provided by federal regulations governing imitation firearms,
21 or where the entire device is constructed of transparent or
22 translucent materials which permits unmistakable observation of
23 the device’s complete contents, as provided by federal regulations
24 governing imitation firearms.