

ASSEMBLY BILL

No. 169

Introduced by Assembly Member Dickinson

January 24, 2013

An act to amend Section 32000 of, and to repeal Section 32110 of, the Penal Code, relating to unsafe handguns.

LEGISLATIVE COUNSEL'S DIGEST

AB 169, as introduced, Dickinson. Unsafe handguns.

(1) Existing law requires parties to a firearms transaction to complete the sale, loan, or transfer of the firearm through a licensed firearms dealer where neither party to the transaction holds a dealer license. Existing law provides for several exceptions from this requirement, including sales made to authorized law enforcement representatives, delivery of a firearm to a gunsmith for repair, transactions involving a firearm that is a curio or relic, or the loaning of a firearm for use solely as a prop in a motion picture, among others.

Existing law provides for the testing of handguns and requires the Department of Justice to maintain a roster listing all handguns that are determined not to be unsafe handguns. Existing law makes it a crime, punishable by imprisonment in a county jail not exceeding one year, to manufacture, import into the state for sale, keep for sale, offer or expose for sale, give, or lend an unsafe handgun. Existing law provides that the provisions defining and governing unsafe handguns do not apply to certain transactions, including the sale, loan, or transfer of any firearm in a transaction that requires the use of a licensed dealer, or where the sale, loan, or transfer is exempt from the provisions of law requiring the transfer to be conducted through a licensed firearms dealer, among others.

This bill would repeal these exemptions, and would instead make the prohibition on manufacturing, importing, selling, giving, or lending an unsafe handgun inapplicable to the sale, loan, or transfer of any firearm that is exempt from the requirement that a firearms transaction to be completed through a licensed firearms dealer. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law exempts the purchase of a handgun from the above prohibition on manufacturing, importing, selling, giving, or lending an unsafe handgun if the handgun is sold to, or purchased by, the Department of Justice, a police department, a sheriff’s official, a marshal’s office, the Department of Corrections and Rehabilitation, the California Highway Patrol, any district attorney’s office, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

This bill would prohibit a person exempted under the above provision from selling or otherwise transferring the ownership of the handgun to a person who is not exempted under the same provision unless the transaction is exempt from the requirement to complete the transaction through a licensed dealer. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) The bill would also make nonsubstantive, technical corrections.

(4) 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 32000 of the Penal Code is amended to
- 2 read:
- 3 32000. (a) Commencing January 1, 2001, any person in this
- 4 state who manufactures or causes to be manufactured, imports into
- 5 the state for sale, keeps for sale, offers or exposes for sale, gives,
- 6 or lends any unsafe handgun shall be punished by imprisonment
- 7 in a county jail not exceeding one year.
- 8 (b) This section shall not apply to any of the following:

1 (1) The manufacture in this state, or importation into this state,
2 ~~of any prototype pistol, revolver, or other firearm capable of being~~
3 ~~concealed upon the person~~ *a prototype handgun* when the
4 manufacture or importation is for the sole purpose of allowing an
5 independent laboratory certified by the Department of Justice
6 pursuant to Section 32010 to conduct an independent test to
7 determine whether that ~~pistol, revolver, or other firearm capable~~
8 ~~of being concealed upon the person~~ *handgun* is prohibited by
9 Sections 31900 to 32110, inclusive, and, if not, allowing the
10 department to add the firearm to the roster of ~~pistols, revolvers,~~
11 ~~and other firearms capable of being concealed upon the person~~
12 *handguns* that may be sold in this state pursuant to Section 32015.

13 (2) The importation or lending of a ~~pistol, revolver, or other~~
14 ~~firearm capable of being concealed upon the person~~ *handgun* by
15 employees or authorized agents of entities determining whether
16 the weapon is prohibited by this section.

17 (3) Firearms listed as curios or relics, as defined in Section
18 478.11 of Title 27 of the Code of Federal Regulations.

19 (4) The sale or purchase of ~~any pistol, revolver, or other firearm~~
20 ~~capable of being concealed upon the person, if the pistol, revolver,~~
21 ~~or other firearm~~ *a handgun, if the handgun* is sold to, or purchased
22 by, the Department of Justice, ~~any~~ *a* police department, ~~any~~ *a*
23 sheriff's official, ~~any~~ *a* marshal's office, ~~the Youth and Adult~~
24 ~~Correctional Agency~~ *the Department of Corrections and*
25 *Rehabilitation*, the California Highway Patrol, any district
26 attorney's office, or the military or naval forces of this state or of
27 the United States for use in the discharge of their official duties.
28 ~~Nor shall anything in this~~ *This section does not* prohibit the sale
29 to, or purchase by, sworn members of these agencies of ~~any pistol,~~
30 ~~revolver, or other firearm capable of being concealed upon the~~
31 ~~person.~~ *a handgun. Except as provided in paragraph (5), a person*
32 *who, under this paragraph, acquires a handgun that is not on the*
33 *roster required by Section 23015, shall not sell or otherwise*
34 *transfer ownership of the handgun to a person who is not exempted*
35 *under this paragraph.*

36 (5) *The sale, loan, or transfer of any firearm that is exempt from*
37 *the provisions of Section 27545 pursuant to any applicable*
38 *exemption contained in Article 2 (commencing with Section 27600)*
39 *or Article 6 (commencing with Section 27850) of Chapter 4 of*

1 *Division 6, if the sale, loan, or transfer complies with the*
2 *requirements of that applicable exemption to Section 27545.*

3 (c) Violations of subdivision (a) are cumulative with respect to
4 each handgun and shall not be construed as restricting the
5 application of any other law. However, an act or omission
6 punishable in different ways by this section and other provisions
7 of law shall not be punished under more than one provision, but
8 the penalty to be imposed shall be determined as set forth in Section
9 654.

10 SEC. 2. Section 32110 of the Penal Code is repealed.

11 ~~32110. Article 4 (commencing with Section 31900) and Article~~
12 ~~5 (commencing with Section 32000) shall not apply to any of the~~
13 ~~following:~~

14 ~~(a) The sale, loan, or transfer of any firearm pursuant to Chapter~~
15 ~~5 (commencing with Section 28050) of Division 6 in order to~~
16 ~~comply with Section 27545.~~

17 ~~(b) The sale, loan, or transfer of any firearm that is exempt from~~
18 ~~the provisions of Section 27545 pursuant to any applicable~~
19 ~~exemption contained in Article 2 (commencing with Section 27600)~~
20 ~~or Article 6 (commencing with Section 27850) of Chapter 4 of~~
21 ~~Division 6, if the sale, loan, or transfer complies with the~~
22 ~~requirements of that applicable exemption to Section 27545.~~

23 ~~(c) The sale, loan, or transfer of any firearm as described in~~
24 ~~paragraph (3) of subdivision (b) of Section 32000.~~

25 ~~(d) The delivery of a pistol, revolver, or other firearm capable~~
26 ~~of being concealed upon the person to a person licensed pursuant~~
27 ~~to Sections 26700 to 26915, inclusive, for the purposes of the~~
28 ~~service or repair of that firearm.~~

29 ~~(e) The return of a pistol, revolver, or other firearm capable of~~
30 ~~being concealed upon the person by a person licensed pursuant to~~
31 ~~Sections 26700 to 26915, inclusive, to its owner where that firearm~~
32 ~~was initially delivered in the circumstances set forth in subdivision~~
33 ~~(a), (d), (f), or (i).~~

34 ~~(f) The delivery of a pistol, revolver, or other firearm capable~~
35 ~~of being concealed upon the person to a person licensed pursuant~~
36 ~~to Sections 26700 to 26915, inclusive, for the purpose of a~~
37 ~~consignment sale or as collateral for a pawnbroker loan.~~

38 ~~(g) The sale, loan, or transfer of any pistol, revolver, or other~~
39 ~~firearm capable of being concealed upon the person listed as a~~

1 curio or relic, as defined in Section 478.11 of Title 27 of the Code
2 of Federal Regulations.

3 ~~(h) The sale, loan, or transfer of any semiautomatic pistol that~~
4 ~~is to be used solely as a prop during the course of a motion picture,~~
5 ~~television, or video production by an authorized participant therein~~
6 ~~in the course of making that production or event or by an authorized~~
7 ~~employee or agent of the entity producing that production or event.~~

8 ~~(i) The delivery of a pistol, revolver, or other firearm capable~~
9 ~~of being concealed upon the person to a person licensed pursuant~~
10 ~~to Sections 26700 to 26915, inclusive, where the firearm is being~~
11 ~~loaned by the licensee to a consultant-evaluator.~~

12 ~~(j) The delivery of a pistol, revolver, or other firearm capable~~
13 ~~of being concealed upon the person by a person licensed pursuant~~
14 ~~to Sections 26700 to 26915, inclusive, where the firearm is being~~
15 ~~loaned by the licensee to a consultant-evaluator.~~

16 ~~(k) The return of a pistol, revolver, or other firearm capable of~~
17 ~~being concealed upon the person to a person licensed pursuant to~~
18 ~~Sections 26700 to 26915, inclusive, where it was initially delivered~~
19 ~~pursuant to subdivision (j).~~

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

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