

AMENDED IN SENATE APRIL 2, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 363

Introduced by Senator Wright

February 20, 2013

An act to amend ~~Section~~ *Sections 25100 and 32015* of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 363, as amended, Wright. Firearms: criminal storage: *unsafe handguns: fees.*

(1) Existing law requires the Department of Justice to maintain a roster listing all pistols, revolvers, and other firearms capable of being concealed on the person that have been tested by a certified testing laboratory and have been determined not to be unsafe handguns. Existing law allows the department to charge manufacturers of firearms an annual fee not to exceed the costs of preparing, publishing, and maintaining the roster.

This bill would require the annual fee, commencing on January 1, 2015, to be paid on January 1 of every year.

Existing

(2) Existing law, subject to exceptions, provides that the offense of criminal storage of a firearm is committed when a person who keeps any loaded firearm within any premises that are under the person's custody or control knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, and the child obtains access to the firearm and thereby causes death or injury to the child or any other person, as

specified, or carries the firearm to a public place, or unlawfully displays or uses the firearm, as specified.

This bill would expand these provisions to include the circumstance of when the person who keeps the firearm knows or reasonably should know that a person prohibited from owning or possessing a firearm or deadly weapon, as specified, is likely to gain access to the firearm, and that person gains access to the firearm and thereby causes death or injury to himself or herself or any other person, as specified, or carries the firearm to a public place, or unlawfully displays or uses the firearm, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

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 25100 of the Penal Code is amended to
2 read:

3 25100. (a) Except as provided in Section 25105, a person
4 commits the crime of “criminal storage of a firearm of the first
5 degree” if all of the following conditions are satisfied:

6 (1) The person keeps any loaded firearm within any premises
7 that are under the person’s custody or control.

8 (2) The person knows or reasonably should know that a child
9 is likely to gain access to the firearm without the permission of
10 the child’s parent or legal guardian, or that a person prohibited
11 from possessing a firearm or deadly weapon pursuant to Section
12 8100 or 8103 of the Welfare and Institutions Code is likely to gain
13 access to the firearm.

14 (3) The child obtains access to the firearm and thereby causes
15 death or great bodily injury to the child or any other person, or the
16 person prohibited from possessing a firearm or deadly weapon
17 pursuant to Section 8100 or 8103 of the Welfare and Institutions

1 Code obtains access to the firearm and thereby causes death or
2 great bodily injury to himself or herself or any other person.

3 (b) Except as provided in Section 25105, a person commits the
4 crime of “criminal storage of a firearm of the second degree” if
5 all of the following conditions are satisfied:

6 (1) The person keeps any loaded firearm within any premises
7 that are under the person’s custody or control.

8 (2) The person knows or reasonably should know that a child
9 is likely to gain access to the firearm without the permission of
10 the child’s parent or legal guardian, or that a person prohibited
11 from possessing a firearm or deadly weapon pursuant to Section
12 8100 or 8103 of the Welfare and Institutions Code is likely to gain
13 access to the firearm.

14 (3) The child obtains access to the firearm and thereby causes
15 injury, other than great bodily injury, to the child or any other
16 person, or carries the firearm either to a public place or in violation
17 of Section 417, or the person prohibited from possessing a firearm
18 or deadly weapon pursuant to Section 8100 or 8103 of the Welfare
19 and Institutions Code obtains access to the firearm and thereby
20 causes injury, other than great bodily injury, to himself or herself
21 or any other person, or carries the firearm either to a public place
22 or in violation of Section 417.

23 *SEC. 2. Section 32015 of the Penal Code is amended to read:*

24 32015. (a) On and after January 1, 2001, the Department of
25 Justice shall compile, publish, and thereafter maintain a roster
26 listing all of the pistols, revolvers, and other firearms capable of
27 being concealed upon the person that have been tested by a certified
28 testing laboratory, have been determined not to be unsafe handguns,
29 and may be sold in this state pursuant to this part. The roster shall
30 list, for each firearm, the manufacturer, model number, and model
31 name.

32 (b) (1) The department may charge every person in this state
33 who is licensed as a manufacturer of firearms pursuant to Chapter
34 44 (commencing with Section 921) of Title 18 of the United States
35 Code, and any person in this state who manufactures or causes to
36 be manufactured, imports into the state for sale, keeps for sale, or
37 offers or exposes for sale any pistol, revolver, or other firearm
38 capable of being concealed upon the person in this state, an annual
39 fee not exceeding the costs of preparing, publishing, and
40 maintaining the roster pursuant to subdivision (a) and the costs of

1 research and development, report analysis, firearms storage, and
2 other program infrastructure costs necessary to implement Sections
3 31900 to 32110, inclusive. *Commencing January 1, 2015, the*
4 *annual fee shall be paid on January 1 of every year.*

5 (2) Any pistol, revolver, or other firearm capable of being
6 concealed upon the person that is manufactured by a manufacturer
7 who manufactures or causes to be manufactured, imports into the
8 state for sale, keeps for sale, or offers or exposes for sale any pistol,
9 revolver, or other firearm capable of being concealed upon the
10 person in this state, and who fails to pay any fee required pursuant
11 to paragraph (1), may be excluded from the roster.

12 (3) If a purchaser has initiated a transfer of a handgun that is
13 listed on the roster as not unsafe, and prior to the completion of
14 the transfer, the handgun is removed from the roster of not unsafe
15 handguns because of failure to pay the fee required to keep that
16 handgun listed on the roster, the handgun shall be deliverable to
17 the purchaser if the purchaser is not otherwise prohibited from
18 purchasing or possessing the handgun. However, if a purchaser
19 has initiated a transfer of a handgun that is listed on the roster as
20 not unsafe, and prior to the completion of the transfer, the handgun
21 is removed from the roster pursuant to subdivision (d) of Section
22 32020, the handgun shall not be deliverable to the purchaser.

23 ~~SEC. 2.~~

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

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