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AB-2165 Firearms: prohibitions: exemptions. (2015-2016)

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Assembly Bill No. 2165

CHAPTER 640

An act to amend Section 32000 of the Penal Code, relating to firearms.

[Approved by Governor September 26, 2016. Filed with Secretary of State September 26, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2165, Bonta. Firearms: prohibitions: exemptions.

Existing law makes it a crime for any person in this state to manufacture, import into the state for sale, keep for sale, offer or expose for sale, give, or lend an unsafe handgun. Under existing law, this prohibition does not apply to the sale or purchase of a handgun if the handgun is sold to, or purchased by, a police department, the Department of Corrections and Rehabilitation, or any federal law enforcement agency, among other entities.

This bill would also make the above prohibition inapplicable to the sale or purchase of a handgun if the handgun is sold to, or purchased by, specified entities or sworn members of those entities who have satisfactorily completed the firearms portion of a training course prescribed by the Commission on Peace Officer Standards and Training. The bill would prohibit a licensed firearms dealer from processing the sale or transfer of an unsafe handgun between a person who has obtained an unsafe handgun pursuant to this exemption and a person who is not exempt.

This bill would require a person, with exceptions, who obtains an unsafe handgun pursuant to this exemption to, when leaving the handgun in an unattended vehicle, as defined, lock the handgun in the vehicle's trunk or lock the handgun in a locked container, as defined, and place the container out of plain view. The bill would make a violation of this provision an infraction punishable by a fine not exceeding \$1,000. By creating a new 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 32000 of the Penal Code is amended to read:

32000. (a) A person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends an unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year.

(b) This section shall not apply to any of the following:

(1) The manufacture in this state, or importation into this state, of a prototype handgun when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice pursuant to Section 32010 to conduct an independent test to determine whether that handgun is prohibited by Sections 31900 to 32110, inclusive, and, if not, allowing the department to add the firearm to the roster of handguns that may be sold in this state pursuant to Section 32015.

(2) The importation or lending of a handgun by employees or authorized agents of entities determining whether the weapon is prohibited by this section.

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

(4) The sale or purchase of a 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 Department of the California Highway Patrol, any district attorney's office, any federal law enforcement agency, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. This section does not prohibit the sale to, or purchase by, sworn members of these agencies of a handgun.

(5) The sale, purchase, or delivery of a handgun, if the sale, purchase, or delivery of the handgun is made pursuant to subdivision (d) of Section 10334 of the Public Contract Code.

(6) Subject to the limitations set forth in subdivision (c), the sale or purchase of a handgun, if the handgun is sold to, or purchased by, any of the following entities or sworn members of these entities who have satisfactorily completed the firearms portion of a training course prescribed by the Commission on Peace Officer Standards and Training pursuant to Section 832:

(A) The Department of Parks and Recreation.

(B) The Department of Alcoholic Beverage Control.

(C) The Division of Investigation of the Department of Consumer Affairs.

(D) The Department of Motor Vehicles.

(E) The Fraud Division of the Department of Insurance.

(F) The State Department of State Hospitals.

(G) The Department of Fish and Wildlife.

(H) The State Department of Developmental Services.

(I) The Department of Forestry and Fire Protection.

(J) A county probation department.

(K) The Los Angeles World Airports, as defined in Section 830.15.

(L) A K–12 public school district for use by a school police officer, as described in Section 830.32.

(M) A municipal water district for use by a park ranger, as described in Section 830.34.

(N) A county for use by a welfare fraud investigator or inspector, as described in Section 830.35.

(O) A county for use by the coroner or the deputy coroner, as described in Section 830.35.

(P) The Supreme Court and the courts of appeal for use by marshals of the Supreme Court and bailiffs of the courts of appeal, and coordinators of security for the judicial branch, as described in Section 830.36.

(Q) A fire department or fire protection agency of a county, city, city and county, district, or the state for use by either of the following:

(i) A member of an arson-investigating unit, regularly paid and employed in that capacity pursuant to Section 830.37.

(ii) A member other than a member of an arson-investigating unit, regularly paid and employed in that capacity pursuant to Section 830.37.

(R) The University of California Police Department, or the California State University Police Departments, as described in Section 830.2.

(S) A California Community College police department, as described in Section 830.32.

(c) (1) Notwithstanding Section 26825, a person licensed pursuant to Sections 26700 to 26915, inclusive, shall not process the sale or transfer of an unsafe handgun between a person who has obtained an unsafe handgun pursuant to an exemption specified in paragraph (6) of subdivision (b) and a person who is not exempt from the requirements of this section.

(2) (A) A person who obtains an unsafe handgun pursuant to paragraph (6) of subdivision (b) shall, when leaving the handgun in an unattended vehicle, lock the handgun in the vehicle's trunk, lock the handgun in a locked container and place the container out of plain view, or lock the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view.

(B) A violation of subparagraph (A) is an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(C) For purposes of this paragraph, the following definitions shall apply:

(i) "Vehicle" has the same meaning as defined in Section 670 of the Vehicle Code.

(ii) A vehicle is "unattended" when a person who is lawfully carrying or transporting a handgun in the vehicle is not within close proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.

(iii) "Locked container" has the same meaning as defined in Section 16850.

(D) Subparagraph (A) does not apply to a peace officer during circumstances requiring immediate aid or action that are within the course of his or her official duties.

(E) This paragraph does not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before the date of the enactment of the act that added this subparagraph.

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.