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SB-1100 Firearms: transfers. (2017-2018)

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Senate Bill No. 1100

CHAPTER 894

An act to amend Sections 27510 and 29182 of the Penal Code, relating to firearms.

[Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1100, Portantino. Firearms: transfers.

Existing law prohibits the sale or transfer of a handgun, except as specifically exempted, to any person under 21 years of age. Existing law also prohibits the sale or transfer of a firearm, other than a handgun, except as specifically exempted, to any person under 18 years of age. A violation of this prohibition by the dealer is a crime.

This bill would prohibit the sale or transfer of any firearm by a licensed dealer, except as specifically exempted, to any person under 21 years of age.

Existing law requires a person who wishes to manufacture or assemble a firearm to first apply to the Department of Justice for a unique serial number or other identifying mark. Existing law requires an applicant to be at least 18 years of age for a firearm that is not a handgun, and at least 21 years of age for a firearm that is a handgun. A violation of the application requirement is a crime.

This bill would instead require an applicant to be at least 21 years of age for any firearm, except that applications would be granted for an applicant who is at least 18 years of age but less than 21 years of age for a firearm that is not a handgun if the application is made before February 1, 2019. The bill would make additional technical, nonsubstantive changes.

This bill would incorporate additional changes to Section 29182 of the Penal Code proposed by SB 746 to be operative only if this bill and SB 746 are enacted and this bill is enacted last.

By expanding the scope of existing crimes, 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 27510 of the Penal Code is amended to read:

27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of his or her employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of his or her employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of his or her employment as a reserve peace officer.

(D) A person who provides proper identification of his or her active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

(E) A person who provides proper identification that he or she is an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

SEC. 2. Section 29182 of the Penal Code is amended to read:

29182. (a) (1) The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to manufacture or assemble firearms pursuant to subdivision (b) of Section 29180.

(2) The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to own a firearm described in subdivision (c) of Section 29180.

(b) An application made pursuant to subdivision (a) shall only be granted by the department if the applicant does all of the following:

(1) For each transaction, completes a personal firearms eligibility check demonstrating that the applicant is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) (A) Presents proof of age and identity as specified in Section 16400. Except as provided in subparagraph (B), the applicant shall be 21 years of age or older to obtain a unique serial number or mark of identification for a firearm.

(B) The department shall grant an application to an applicant who is at least 18 years of age, but less than 21 years of age, for a serial number for a firearm that is not a handgun, if that application is made before February 1, 2019.

(3) Provides a description of the firearm that he or she owns or intends to manufacture or assemble, in a manner prescribed by the department.

(4) Has a valid firearm safety certificate or handgun safety certificate.

(c) The department shall inform applicants who are denied an application of the reasons for the denial in writing.

(d) All applications shall be granted or denied within 15 calendar days of the receipt of the application by the department.

(e) This chapter does not authorize a person to manufacture, assemble, or possess a weapon prohibited under Section 16590, an assault weapon as defined in Section 30510 or 30515, a machinegun as defined in Section 16880, a .50 BMG rifle as defined in Section 30530, or a destructive device as defined in Section 16460.

(f) The department shall adopt regulations to administer this chapter.

SEC. 2.5. Section 29182 of the Penal Code is amended to read:

29182. (a) (1) The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to manufacture or assemble firearms pursuant to subdivision (b) of Section 29180.

(2) The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to own a firearm described in subdivision (c) of Section 29180.

(b) An application made pursuant to subdivision (a) shall only be granted by the department if the applicant does all of the following:

(1) For each transaction, completes a firearms eligibility check pursuant to Section 28220 demonstrating that the applicant is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) (A) Presents proof of age and identity as specified in Section 16400. Except as provided in subparagraph (B), the applicant shall be 21 years of age or older to obtain a unique serial number or mark of identification for a firearm.

(B) The department shall grant an application to an applicant who is at least 18 years of age, but less than 21 years of age, for a serial number for a firearm that is not a handgun, if that application is made before February 1, 2019.

(3) Provides a description of the firearm that he or she owns or intends to manufacture or assemble, in a manner prescribed by the department.

(4) Has a valid firearm safety certificate or handgun safety certificate.

(c) The department shall inform applicants who are denied an application of the reasons for the denial in writing.

(d) All applications shall be granted or denied within 15 calendar days of the receipt of the application by the department.

(e) (1) This chapter does not authorize a person to manufacture, assemble, or possess a weapon prohibited under Section 16590, an assault weapon as defined in Section 30510 or 30515, a machinegun as defined in Section 16880, a .50 BMG rifle as defined in Section 30530, or a destructive device as defined in Section 16460.

(2) This chapter does not authorize a person, on or after July 1, 2018, to manufacture or assemble an unsafe handgun, as defined in Section 31910.

(f) The department shall adopt regulations to administer this chapter.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 29182 of the Penal Code proposed by both this bill and Senate Bill 746. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 29182 of the Penal Code, and (3) this bill is enacted after Senate Bill 746, in which case Section 2 of this bill shall not become operative.

SEC. 4. 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.