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AB-1191 Firearms: tracing. (2021-2022)

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Assembly Bill No. 1191

CHAPTER 683

An act to amend Section 11108.3 of the Penal Code, relating to firearms.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1191, McCarty. Firearms: tracing.

Existing law directs law enforcement agencies, as defined, to submit the description of a firearm that has been reported stolen, lost, found, recovered, or under observation directly to an automated Department of Justice system.

Existing law also requires these law enforcement agencies to report to the Department of Justice any information in their possession necessary to identify and trace the history of a recovered firearm that is illegally possessed, has been used in a crime, or is suspected of having been used in a crime.

Existing law requires the department to maintain this data for at least 10 years and make it available, as specified, for academic and research purposes.

This bill would require the department to analyze the data as specified and, by no later than July 1, 2023, and annually thereafter, submit a report to the Legislature summarizing this analysis, and make the report available to the public.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Prior to 2003, the United States Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conducted a nationwide analysis on crime gun tracing that was publicly available. In 2003, the Tiahrt Amendment was added to the 2003 federal appropriations bill and because of ATF's interpretation of the limitations of this amendment, policymakers and the general public can no longer access information on how crime guns make their way into their communities.

(b) ATF approximates that 75 percent of all crime guns recovered in California originate from within the state, however the ATF's reports do not identify the individual dealers.

(c) The California Department of Justice Automated Firearms System (AFS) collects all of the following data:

(1) All assault weapons registered in California since 1989.

(2) The following handgun data, if properly reported to the Department of Justice:

(A) Any handgun acquired by a California resident from an in-state source if the transfer took place in California after September 30, 1953.

(B) Any handgun acquired by a California resident from an out-of-state source since 1967.

(C) Any handgun acquired by a California resident after January 1, 2015, while out of state, if the handgun is to be brought into this state.

(D) Any handgun acquired by a nonresident outside of the state, and brought into the state after January 1, 1998, if the person establishes residency in this state on or after January 1, 1998.

(3) The following long gun data reported to the Department of Justice:

(A) Any long gun acquired in the state since 2014.

(B) Any long gun acquired by a California resident after January 1, 2015, while out of state, if the long gun is to be brought into this state.

(C) Any long gun acquired by a nonresident outside of the state, and brought into the state after January 1, 2014, if the person establishes residency in this state on or after January 1, 2014.

(D) Any other long gun voluntarily reported to the Department of Justice.

(4) Other firearm-related acquisition information dating back to 1917.

(d) Despite having this data, the state does not conduct a comprehensive and coordinated analysis of available data on seized crime guns. This leaves an abundance of invaluable information that could identify trafficking patterns and illegal or irresponsible transfers from gun dealers ignored.

(e) The access to trafficked firearms disproportionately affects communities of color. Black men make up less than 4 percent of California's population, yet they represent over 30 percent of the gun homicide victims. Black men between 18 and 24 years of age are more than 18 times as likely as White men of the same age to be murdered with a gun in the state. Black children and teens are seven times as likely as White children to die by a gun in California.

(f) This bill requires the California Department of Justice to analyze the information and data it already has on crime guns, independent of the restrictions set by ATF and the Tiahrt Amendment, to determine and evaluate patterns and trends, and create an annual firearm tracing report detailing which California licensed firearms dealers are responsible for selling those guns that are illegally used and possessed.

SEC. 2. Section 11108.3 of the Penal Code is amended to read:

11108.3. (a) In addition to the requirements of Section 11108.2 that apply to a law enforcement agency's duty to report to the Department of Justice the recovery of a firearm, a law enforcement agency described in Section 11108.2 shall, and any other law enforcement agency or agent, including but not limited to a federal or tribal law enforcement agency or agent, may, report to the department in a manner determined by the Attorney General in consultation with the Bureau of Alcohol, Tobacco, Firearms and Explosives all available information necessary to identify and trace the history of all recovered firearms that are illegally possessed, have been used in a crime, or are suspected of having been used in a crime, within seven calendar days of obtaining the information.

(b) When the department receives information from a law enforcement agency pursuant to subdivision (a), it shall promptly forward this information to the National Tracing Center of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to the extent practicable.

(c) In implementing this section, the Attorney General shall ensure to the maximum extent practical that both of the following apply:

(1) The information provided to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives enables that agency to trace the ownership of the firearm described in subdivision (a).

(2) Law enforcement agencies can report all relevant information without being unduly burdened by this reporting function.

(d) Information collected pursuant to this section shall be maintained by the department for a period of not less than 10 years, and shall be available, under guidelines set forth by the Attorney General, for academic and policy research purposes.

(e) The department shall, on an ongoing basis, analyze the information collected pursuant to this section for patterns and trends relating to recovered firearms that have been illegally possessed, used in a crime, or suspected to have been used in a crime,

including the leading sources and origins of those firearms.

(f) (1) The department shall, by no later than July 1, 2023, and annually thereafter, prepare and submit a report to the Legislature summarizing the analysis completed pursuant to subdivision (e). This report shall be submitted in compliance with Section 9795 of the Government Code.

(2) The report shall, without limitation and to the extent possible, include all of the following:

(A) The total number of firearms recovered in the state.

(B) The number of firearms recovered, disaggregated by county and by city.

(C) The number of firearms recovered, disaggregated by the firearms dealer where the most recent sale or transfer of the firearm occurred. This shall include the full name and address of the firearms dealer.

(D) The number of firearms recovered, disaggregated by manufacturer.

(E) The total number of unserialized firearms recovered in the state.

(F) The number of unserialized firearms recovered, disaggregated by county and by city.

(3) The department shall make the report described in this subdivision available to the public.

(g) The Attorney General may issue regulations to further the purposes of this section.