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AB-92 Body armor: prohibition. (2023-2024)

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Assembly Bill No. 92

CHAPTER 232

An act to amend Section 31360 of the Penal Code, relating to crimes.

[Approved by Governor September 26, 2023. Filed with Secretary of State September 26, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 92, Connolly. Body armor: prohibition.

Existing law makes it a felony for a person who has been convicted of a violent felony to purchase, own, or possess body armor. Existing law authorizes a person subject to that prohibition, whose employment, livelihood, or safety is dependent on the ability to legally possess and use body armor, to file a petition for an exception to the prohibition with the chief of police or county sheriff of the jurisdiction in which the person seeks to possess and use the body armor, as provided.

This bill would make it a misdemeanor for a person who is prohibited from possessing a firearm under the laws of this state to purchase, own, or possess body armor, as specified.

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 31360 of the Penal Code is amended to read:

31360. (a) A person who has been convicted of a violent felony under the laws of the United States, the State of California, or any other state, government, or country, who purchases, owns, or possesses body armor, as defined in Section 16288, except as authorized under subdivision (c), is guilty of a felony, punishable by imprisonment in state prison for 16 months, or two or three years.

(b) (1) A person who is prohibited from possessing a firearm under the laws of this state, except under Section 29610, who purchases, owns, or possesses body armor, as defined in Section 16288, except as authorized under subdivision (c), is guilty of a misdemeanor.

(2) Upon advising a person of their firearm prohibition, a court shall also advise them of their body armor prohibition pursuant to this section. A person shall relinquish any body armor in their possession.

(c) A person whose employment, livelihood, or safety is dependent on the ability to legally possess and use body armor, who is subject to the prohibition imposed by subdivision (a) due to a prior violent felony conviction, or who is prohibited pursuant to subdivision (b), may file a petition for an exception to this prohibition with the chief of police or county sheriff of the jurisdiction in which that person seeks to possess and use the body armor. The chief of police or sheriff may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the chief of police or sheriff deems appropriate, based on the following:

(1) A finding that the petitioner is likely to use body armor in a safe and lawful manner.

(2) A finding that the petitioner has a reasonable need for this type of protection under the circumstances.

In making its decision, the chief of police or sheriff shall consider the petitioner's continued employment, the interests of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that law enforcement officials exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, this paragraph may not be construed to require law enforcement officials to grant relief to any particular petitioner. Relief from this prohibition does not relieve any other person or entity from any liability that might otherwise be imposed.

(d) The chief of police or sheriff shall require, as a condition of granting an exception under subdivision (c), that the petitioner agree to maintain on the petitioner's person a certified copy of the law enforcement official's permission to possess and use body armor, including any conditions or limitations.

(e) Law enforcement officials who enforce the prohibition specified in subdivision (a) or (b) against a person who has been granted relief pursuant to subdivision (c) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in possession a certified copy of the permission granting the person relief from the prohibition, as required by subdivision (d). This immunity from liability does not relieve any person or entity from any other liability that might otherwise be imposed.

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.