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AB-1089 Firearms. (2023-2024)

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Assembly Bill No. 1089

CHAPTER 243

An act to amend Section 3273.50 of, and to add Title 21 (commencing with Section 3273.60) to Part 4 of Division 3 of, the Civil Code, and to amend Sections 29010 and 29185 of the Penal Code, relating to firearms.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1089, Gipson. Firearms.

(1) Existing law requires any person who manufactures more than 3 firearms in a year to be licensed by the state as a firearms manufacturer. Existing law prohibits any person from using a three-dimensional printer to manufacture a firearm unless that person is a state-licensed firearms manufacturer. Existing law prohibits any person from using a computer numerical control (CNC) milling machine to manufacture a firearm unless the person is a federally licensed manufacturer or importer.

This bill would instead require anybody who uses a three-dimensional printer or CNC milling machine to manufacture a firearm to be a state-licensed manufacturer.

(2) Existing law prohibits the sale, purchase, possession, or receipt of a CNC milling machine that has the sole or primary function of manufacturing firearms to or by anybody in the state other than a federally licensed manufacturer or importer.

This bill would also prohibit the sale, purchase, possession, or receipt of a three-dimensional printer that has the sole or primary function of manufacturing firearms to or by any person in the state other than a state-licensed firearms manufacturer, as specified.

(3) Existing law commencing on July 1, 2023, requires a firearm industry member, as defined, to take reasonable precautions to ensure that they do not sell, distribute, or provide a firearm-related product, as defined, to a downstream distributor or retailer who fails to establish reasonable controls or adhere to laws pertaining to unfair methods of competition, unfair or deceptive acts or practices, and false advertising, and prohibits a firearm industry member from manufacturing, marketing, importing, or offering for sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety, and also authorizes a person who has suffered harm, or the Attorney General, or city or county attorneys, to bring a civil action against a firearm industry member for an act or omission in violation of these requirements

This bill would add three-dimensional printers and CNC milling machines, as specified, to the definition of firearm-related products.

(4) The bill would additionally provide that a civil action may be brought against a person who distributes any code or digital instructions to a specified person for the manufacture of a firearm using a three-dimensional printer or CNC milling machine, or who violates specified provisions relating to the use, sale, marketing, advertising, transfer, possession, purchase, or receipt of a CNC milling machine or three-dimensional printer. The bill would specify that a person is strictly liable for any personal injury or property damage, as specified, caused by any firearm manufactured using the distributed code or manufactured by a CNC milling

machine, three-dimensional printer, or similar machine. The bill would authorize the Attorney General, a county counsel, or a city attorney to bring an action seeking a civil penalty not to exceed \$25,000 for each violation as well as injunctive relief.

(5) The bill would declare its provisions to be severable.

(6) By expanding 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 3273.50 of the Civil Code is amended to read:

3273.50. As used in this title, the following definitions apply:

(a) "Ammunition" has the same meaning as provided in subdivision (b) of Section 16150 of the Penal Code.

(b) "Firearm" has the same meaning as provided in subdivisions (a) and (b) of Section 16520 of the Penal Code.

(c) "Firearm accessory" means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm that is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter's ability to hold and use a firearm.

(d) "Firearm-related product" means a firearm, ammunition, a firearm precursor part, a firearm component, firearm manufacturing machine, and a firearm accessory that meets any of the following conditions:

(1) The item is sold, made, or distributed in California.

(2) The item is intended to be sold or distributed in California.

(3) The item is or was possessed in California and it was reasonably foreseeable that the item would be possessed in California.

(e) "Firearm precursor part" has the same meaning as provided in Section 16531 of the Penal Code.

(f) "Firearm industry member" shall mean a person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale sale, or retail sale of firearm-related products.

(g) "Firearm manufacturing machine" means a three-dimensional printer, as defined in Section 29185 of the Penal Code, or CNC milling machine that, as described in that section, is marketed or sold as, or reasonably designed or intended to be used to manufacture or produce a firearm.

(h) "Reasonable controls" means reasonable procedures, acts, or practices that are designed, implemented, and enforced to do the following:

(1) Prevent the sale or distribution of a firearm-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm-related product to harm themselves or another or of possessing or using a firearm-related product unlawfully.

(2) Prevent the loss or theft of a firearm-related product from the firearm industry member.

(3) Ensure that the firearm industry member complies with all provisions of California and federal law and does not otherwise promote the unlawful manufacture, sale, possession, marketing, or use of a firearm-related product.

SEC. 2. Title 21 (commencing with Section 3273.60) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 21. Firearm Manufacturing

3273.60. As used in this title, the following definitions apply:

(a) "Digital firearm manufacturing code" means any digital instructions in the form of computer-aided design files or other code or instructions stored and displayed in electronic format as a digital model that may be used to program a CNC milling machine, a three-dimensional printer, or a similar machine, to manufacture or produce a firearm, including a completed frame or receiver or a firearm precursor part.

(b) "Federally licensed firearms manufacturer" means a person, firm, corporation, or other entity that holds a valid license to manufacture firearms issued pursuant to Chapter 44 (commencing with Section 921) of Part I of Title 18 of the United States Code and regulations issued pursuant thereto.

(c) "Firearm" has the same meaning as in subdivisions (a) and (b) of Section 16520 of the Penal Code.

(d) "Three-dimensional printer" means a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object.

3273.61. (a) A civil action may be brought against a person who knowingly does either of the following:

(1) Distributes or causes to be distributed, by any means including the internet, any digital firearm manufacturing code to any other person in this state who is not a federally licensed firearms manufacturer, member of the Armed Forces of the United States or the National Guard, while on duty and acting within the scope and course of employment, or any law enforcement agency or forensic laboratory.

(2) Commits an act that violates Section 29185 of the Penal Code, regardless of whether the act results in a conviction.

(b) (1) A person who commits an act described in subdivision (a) shall be strictly liable for any personal injury or property damage inflicted by the use of a firearm that is manufactured or produced using the digital firearm manufacturing code that they distributed or caused to be distributed, or that is manufactured by means of a computer numerical control (CNC) milling machine, a three-dimensional printer, or a similar machine.

(2) This subdivision does not apply to any injury or property damage sustained by a person who commits an unlawful act described in subdivision (a).

(c) The Attorney General, county counsel, or city attorney may bring an action in any court of competent jurisdiction to establish that a person has violated this section and may seek a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation, as well as injunctive relief sufficient to prevent the person and any other defendant from further violating the law.

(d) A prevailing plaintiff shall be entitled to recover reasonable attorney's fees and costs.

(e) The remedies provided by this section are cumulative and shall not be construed as restricting any other rights, causes of action, claims, or defenses available under any other law.

3273.62. (a) A person shall not sell, offer to sell, transfer, advertise, or market a CNC milling machine or three-dimensional printer in a manner that knowingly or recklessly causes another person in this state to engage in conduct prohibited by Section 29185 of the Penal Code, or in a manner that otherwise knowingly or recklessly aids, abets, promotes, or facilitates conduct prohibited by that section.

(b) There shall be a rebuttable presumption that a person is engaged in conduct in violation of subdivision (a) if both of the following are true:

(1) The person offers to sell, advertises, or markets a CNC milling machine or three-dimensional printer in a manner that, under the totality of the circumstances, is targeted at purchasers seeking to manufacture firearms or that otherwise affirmatively promotes the machine or printer's utility in manufacturing firearms, regardless of whether the machine or printer is otherwise described or classified as having any other capabilities.

(2) The person sells or transfers the CNC milling machine or three-dimensional printer described in paragraph (1) without verifying that a purchaser or transferee in this state is a federally licensed firearms manufacturer or not otherwise prohibited from purchasing or using the machine or printer to manufacture firearms under Section 29185 of the Penal Code.

(c) A person who has suffered harm because of conduct in violation of this section, including conduct in violation of Section 29185 of the Penal Code that was precipitated by a violation of this section, may bring an action in a court of competent jurisdiction to seek appropriate relief, which may include injunctive relief sufficient to prevent the person and any other defendant from further violating the law, compensatory or statutory damages, punitive damages, reasonable attorney's fees and costs, and any other appropriate relief necessary to enforce this title and remedy the harm caused by the violation.

(d) In the name of the people of the State of California, the Attorney General, county counsel, or city attorney may bring an action in any court of competent jurisdiction to establish that a person has violated this section, or Section 29185 of the Penal Code, and seek a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation, as well as injunctive relief sufficient to prevent the person and any other defendant from further violating the law.

SEC. 3. Section 29010 of the Penal Code is amended to read:

29010. (a) A person shall not manufacture more than three firearms within this state in a calendar year unless that person is licensed pursuant to Chapter 2 (commencing with Section 29030).

(b) If a person required to be licensed pursuant to Chapter 2 (commencing with Section 29030) ceases operations, then the records required pursuant to Section 29130 and subdivision (b) of Section 29115 shall be forwarded to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives within three days of the closure of business.

(c) A violation of this section is a misdemeanor.

SEC. 4. Section 29185 of the Penal Code is amended to read:

29185. (a) No person, other than a state-licensed firearms manufacturer, shall use a computer numerical control (CNC) milling machine or three-dimensional printer to manufacture a firearm.

(b) It is unlawful to sell, offer to sell, or transfer a CNC milling machine or three-dimensional printer that has the sole or primary function of manufacturing firearms to any person in this state, other than a state-licensed firearms manufacturer.

(c) It is unlawful for any person in this state other than a state-licensed firearms manufacturer to possess, purchase, or receive a CNC milling machine or three-dimensional printer that has the sole or primary function of manufacturing firearms.

(d) Subdivisions (b) and (c) do not apply to any of the following:

(1) A person who is engaged in the business of selling manufacturing equipment to a state-licensed firearms manufacturer, and who possesses a CNC milling machine or three-dimensional printer with the intent to sell or transfer the CNC milling machine or three-dimensional printer to a state licensed firearms manufacturer.

(2) A common carrier licensed under state law, or a motor carrier, air carrier or carrier affiliated with an air carrier through common controlling interest that is subject to Title 49 of the United States Code, or an authorized agent of any such carrier, when acting in the course and scope of duties incident to the receipt, processing, transportation, or delivery of property.

(3) A person who, before June 30, 2022, possessed a CNC milling machine that has the sole or primary function of manufacturing firearms and who, within 90 days after that date, does one of the following:

(A) Sells or transfers the machine to a federally licensed firearms manufacturer or importer.

(B) Sells or transfers the machine to a person described in paragraph (1).

(C) Removes the machine from this state.

(D) Relinquished the machine to a law enforcement agency.

(E) Otherwise lawfully terminates possession of the machine.

(4) A person who, before July 1, 2024, possessed a three-dimensional printer that has the sole or primary function of manufacturing firearms and who, within 90 days after that date, does one of the following:

(A) Sells or transfers the machine to a state-licensed firearms manufacturer.

(B) Sells or transfers the machine to a person described in paragraph (1).

(C) Removes the machine from this state.

(D) Relinquishes the machine to a law enforcement agency.

(E) Otherwise lawfully terminates possession of the machine.

(e) This section does not apply to any member of the Armed Forces of the United States or the National Guard, while on duty and acting within the scope and course of employment, or any law enforcement agency or forensic laboratory.

(f) A violation of this section is punishable as a misdemeanor.

(g) As used in this section, the following terms are defined as follows:

(1) "State-licensed firearms manufacturer" has the same meaning as the term "licensee" is defined in Section 29030.

(2) "Three-dimensional printer" means a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 6. 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.