

Introduced by Senator Scott

February 22, 2001

An act to amend ~~Section 12088.2~~ *Sections 12088 and 12088.6* of the Penal Code, relating to firearms safety devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 464, as amended, Scott. Firearms safety devices.

Existing law requires the Department of Justice to compile, publish, and maintain a roster listing all of the safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for firearms safety devices and may be sold in this state.

This bill would, in addition, authorize the department to randomly retest samples obtained from sources other than directly from the manufacturer of the firearms safety devices listed on the roster to ensure compliance with the requirements established by the department.

This bill would also provide that it would be unlawful to keep for sale, offer or expose for sale, sell, or distribute any firearms safety device that does not pass the standards adopted by the department. Violation of these provisions would be punishable by a \$1,000 fine, and additionally, for subsequent violations in the case of a licensed firearms dealer, by temporary or permanent ineligibility to sell firearms, as specified.

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.

~~Existing law requires the Attorney General to develop safety standards, as specified, for firearms safety devices that are designed to reduce the risk of unintentional injury by firearms.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 12088.2 of the Penal Code, as added by~~
2 *SECTION 1. Section 12088 of the Penal Code is amended to*
3 *read:*

4 12088. Effective January 1, 2001:

5 (a) The Department of Justice shall certify laboratories to
6 verify compliance with standards for firearms safety devices set
7 forth in Section 12088.2.

8 (b) The Department of Justice may charge any laboratory that
9 is seeking certification to test firearms safety devices a fee not
10 exceeding the costs of certification, including costs associated
11 with the development and approval of regulations and standards
12 pursuant to Section 12088.2.

13 (c) The certified laboratory shall, at the manufacturer’s or
14 dealer’s expense, test the firearms safety device and submit a copy
15 of the final test report directly to the Department of Justice along
16 with the firearms safety device. The department shall notify the
17 manufacturer or dealer of its receipt of the final test report and the
18 department’s determination as to whether the firearms safety
19 device tested may be sold in this state.

20 (d) On and after July 1, 2001, the Department of Justice shall
21 compile, publish, and thereafter maintain a roster listing all of the
22 safety devices that have been tested by a certified testing
23 laboratory, have been determined to meet the department’s
24 standards for firearms safety devices and may be sold in this state.

25 (e) The roster shall list, for each firearms safety device, the
26 manufacturer, model number, and model name.



1 (f) *The department may randomly retest samples obtained from*
2 *sources other than directly from the manufacturer of the firearms*
3 *safety devices listed on the roster to ensure compliance with the*
4 *requirements of this article.*

5 *SEC. 2. Section 12088.6 of the Penal Code is amended to*
6 *read:*

7 12088.6. (a) *It shall be unlawful to keep for sale, offer or*
8 *expose for sale, sell, or distribute any firearms safety device that*
9 *does not comply with the standards adopted pursuant to Section*
10 *12088.2.*

11 (b) *Any violation of subdivision (a), or of Section 12088.1 or*
12 *Section 12088.3 is punishable by a fine of one thousand dollars*
13 *(\$1,000). On the second violation of any of those sections*
14 *provisions, the licensed firearm manufacturer shall be ineligible to*
15 *manufacture, or the licensed firearm dealer shall be ineligible to*
16 *sell, firearms in this state for 30 days, and shall be punished by a*
17 *fine of one thousand dollars (\$1,000). On the third violation of any*
18 *of those sections provisions, a firearm manufacturer shall be*
19 *permanently ineligible to manufacture firearms in this state. On*
20 *the third violation of any of those sections provisions, a licensed*
21 *firearm dealer shall be permanently ineligible to sell firearms in*
22 *this state.*

23 *SEC. 3. No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*

32 ~~Chapter 246 of the Statutes of 1999, is amended to read:~~

33 ~~12088.2. (a) No later than January 1, 2000, the Attorney~~
34 ~~General shall commence development of regulations to implement~~
35 ~~a minimum safety standard for firearms safety devices and gun~~
36 ~~safes to significantly reduce the risk of firearms-related injuries to~~
37 ~~children 17 years of age and younger. The final standard shall do~~
38 ~~all of the following:~~

39 ~~(1) Address the risk of injury from unintentional gunshot~~
40 ~~wounds.~~



- 1 ~~(2) Address the risk of injury from self-inflicted gunshot~~
2 ~~wounds by unauthorized users.~~
- 3 ~~(3) Include provisions to ensure that all firearms safety devices~~
4 ~~and gun safes are reusable and of adequate quality and construction~~
5 ~~to prevent children and unauthorized users from firing the firearm~~
6 ~~and to ensure that these devices cannot be readily removed from~~
7 ~~the firearm or that the firearm cannot be readily removed from the~~
8 ~~gun safe except by an authorized user using the key, combination,~~
9 ~~or other method of access intended by the manufacturer of the~~
10 ~~device.~~
- 11 ~~(4) Include additional provisions as appropriate.~~
- 12 ~~(b) The Attorney General may consult, for the purposes of~~
13 ~~guidance in development of the standards, test protocols such as~~
14 ~~those described in Title 16 (commencing with Part 1700) of the~~
15 ~~Code of Federal Regulations, relating to poison prevention~~
16 ~~packaging standards. These protocols may be consulted to provide~~
17 ~~suggestions for potential methods to utilize in developing~~
18 ~~standards and shall serve as guidance only. The Attorney General~~
19 ~~shall also give appropriate consideration to the use of devices that~~
20 ~~are not detachable, but are permanently installed and incorporated~~
21 ~~into the design of a firearm. The Attorney General shall adopt and~~
22 ~~issue regulations implementing a final standard not later than~~
23 ~~January 1, 2001. The Attorney General shall report to the~~
24 ~~Legislature on these standards by January 1, 2001. The final~~
25 ~~standard shall be effective January 1, 2002.~~

