

Senate Bill No. 199

Passed the Senate August 28, 2014

Secretary of the Senate

Passed the Assembly August 26, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Sections 16250 and 16700 of the Penal Code, relating to BB devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, De León. BB devices.

Existing law prohibits a person from furnishing a BB device, defined to include a spot marker gun, to a minor without the permission of the minor's parent or guardian, and prohibits selling a BB device to a minor. Violation of either of these prohibitions is a crime. Existing law defines a BB device as any instrument that expels a projectile, such as a BB or pellet, that does not exceed 6 millimeters in caliber.

This bill would, commencing January 1, 2016, delete the 6 millimeter restriction from the definition of a BB device. By including a device that expels a BB or pellet that exceeds 6 millimeters in caliber within the definition of a BB device, this bill would expand the scope of existing crimes, and impose a state-mandated local program.

Existing law generally prohibits anyone from purchasing, selling, manufacturing, shipping, transporting, distributing, or receiving an imitation firearm. A person is liable for a civil fine of not more than \$10,000 for a violation of this prohibition. Existing law excludes all BB devices from the definition of imitation firearm for these purposes.

This bill would, commencing January 1, 2016, make BB devices that expel a projectile, such as a BB or a pellet, that is 6 millimeters or 8 millimeters in caliber subject to that prohibition unless the devices meet specified coloration requirements, and would exclude spot marker guns that expel a projectile larger than 10 millimeters in caliber from the prohibition.

Existing law, for purposes of regulating imitation firearms, adopts coloration and construction schemes prescribed by federal law. Existing law includes a cross-reference to those federal provisions.

This bill would delete the cross-reference to the federal provisions.

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.

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

SECTION 1. Section 16250 of the Penal Code is amended to read:

16250. (a) As used in this part, “BB device” means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 2. Section 16250 is added to the Penal Code, to read:

16250. (a) As used in this part, “BB device” means any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

(b) This section shall be operative on January 1, 2016.

SEC. 3. Section 16700 of the Penal Code is amended to read:

16700. (a) As used in this part, “imitation firearm” means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

(b) As used in Section 20165, “imitation firearm” does not include any of the following:

(1) A nonfiring collector’s replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A BB device.

(3) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern,

as provided by federal regulations governing imitation firearms, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents, as provided by federal regulations governing imitation firearms.

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 4. Section 16700 is added to the Penal Code, to read:

16700. (a) As used in this part, "imitation firearm" means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

(b) As used in Section 20165, "imitation firearm" does not include any of the following:

(1) A nonfiring collector's replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A spot marker gun which expels a projectile that is greater than 10mm caliber.

(3) A BB device that expels a projectile, such as a BB or pellet, that is other than 6mm or 8mm caliber.

(4) A BB device that is an airsoft gun that expels a projectile, such as a BB or pellet, that is 6mm or 8mm caliber which meets the following:

(A) If the airsoft gun is configured as a handgun, in addition to the blaze orange ring on the barrel required by federal law, the airsoft gun has a trigger guard that has fluorescent coloration over the entire guard, and there is a two centimeter wide adhesive band around the circumference of the protruding pistol grip that has fluorescent coloration.

(B) If the airsoft gun is configured as a rifle or long gun, in addition to the blaze orange ring on the barrel required by federal law, the airsoft gun has a trigger guard that has fluorescent coloration over the entire guard, and there is a two centimeter wide adhesive band with fluorescent coloring around the circumference of any two of the following:

(i) The protruding pistol grip.

(ii) The buttstock.

(iii) A protruding ammunition magazine or clip.

(5) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents.

(c) The adhesive bands described in paragraph (4) of subdivision (b) shall be applied in a manner not intended for removal, and shall be in place on the airsoft gun prior to sale to a customer.

(d) This section shall be operative on January 1, 2016.

SEC. 5. 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.

Approved _____, 2014

Governor