



Bill Analysis

Author: Santiago

Bill Number: AB 2699

SUBJECT

Allow additional specified state agencies to obtain, for use by the agency's sworn officers, handguns otherwise barred from sale, possession, or use within the state

SUMMARY

This bill would, under the Penal Code, modify the exception to the prohibition on the sale and purchase of unsafe handguns, as defined, to allow additional state agencies to obtain such handguns for use by the agency's sworn members, modify the conditions that a sworn member of an excepted state agency must meet to use or carry such a handgun, and add a maximum civil penalty applicable to an unlawful transfer or sale of an unsafe handgun purchased under this bill's provisions.

REASON FOR THE BILL

The reason for this bill is to modify current law to allow additional state agencies to obtain unsafe handguns, as defined, for use by the agency's sworn members.

ANALYSIS

This bill would, under the Penal Code, allow additional state agencies, including the Franchise Tax Board (FTB), to purchase unsafe handguns, as defined. This bill would allow the sale or purchase of an unsafe handgun to all excepted entities for use as a service weapon by the entity's sworn members who have:

- Satisfactorily completed the Commission on Peace Officer Standards and Training (POST) basic course or, before January 1, 2021, satisfactorily completed the firearms portion of a training course prescribed by POST, as specified, and
- As a condition of carrying such a handgun, completed live-fire qualification as prescribed by the sworn officer's employing entity at least once every six months.

This bill would require a person or entity, as specified, including the FTB, to report to the Department of Justice (DOJ) in a manner and format prescribed by the DOJ, any sale or transfer of an unsafe handgun within 72 hours of the sale or transfer. Sales or transfers processed through a licensed firearms dealer in accordance with Penal Code section 27545 would be deemed to meet this requirement. Sales or transfers accomplished under an exception to Penal Code section 27545 would not be exempt from the 72 hour reporting requirement. Failure to meet the 72 hour reporting requirement may result in the imposition of a civil penalty not to exceed \$10,000.

An unlawful sale or transfer of an unsafe handgun obtained by a person or entity, as specified, including the FTB, may be subject to a civil penalty not to exceed \$10,000 in addition to any criminal penalties.

The crimes under Penal Code sections 25400 and subdivision (a) of 26350, related to carrying a concealed firearm and openly carrying an unloaded handgun respectively, would not apply to open carrying of a concealed firearm or unloaded handgun for the purpose of complying with the reporting requirement.

Current law specifying storage practices applicable to persons who obtain unsafe handguns would also apply to persons who have use of those unsafe handguns.

Current law allowing the DOJ to charge a fee for reimbursement of actual costs of preparation, sale, and processing and filing of reports, not to exceed \$14 (fourteen dollars) as indexed for inflation, as specified, would apply to the sale and transfer of an unsafe handgun obtained as authorized by this bill, by a licensed firearms dealer, as specified.

This bill includes double jointing language with SB 914 (Portantino, et al.) to prevent chaptering issues if both bills are enacted.

Effective/Operative Date

Assuming enactment by September 30, 2020, this bill would become effective and operative January 1, 2021.

Federal/State Law

Federal Law

Because this bill would allow an exception to the state's prohibition on the sale or purchase of certain handguns within the state, a review of federal income tax law would not be relevant.

State Law

Under current state law, FTB special agents are sworn peace officers charged with the investigation of individuals suspected of committing income tax related crimes or crimes against the FTB and are subject to the state's laws applicable to sworn peace officers absent an exemption.

With limited exceptions, current state law prohibits the manufacture, transport, sale, or lending of an unsafe handgun, as defined in Penal Code section 31910, in the state. Generally an unsafe handgun is any pistol, revolver, or other firearm capable of being concealed upon the person that does not meet specified safety requirements.

Unsafe handguns obtained under an exception may only be sold to another excepted purchaser and when left in an unattended vehicle are subject to certain storage requirements. Violations of the storage requirements are subject to a fine not to exceed \$1,000.

There is no exception under current law allowing the FTB or its sworn peace officers to obtain unsafe handguns for use in the state.

Implementation Considerations

None noted.

Technical Considerations

None noted.

LEGISLATIVE HISTORY

SB 826 (Greene, Chapter 704, Statutes of 1997) among other things, designated specified FTB staff as peace officers under the Penal Code. SB 826 contained double jointing language related to the peace officers designation with SB 951 (Johnson, Chapter 670, Statutes of 1997) and was chaptered after SB 951.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill, as amended August 25, 2020, would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None.

VOTES

Location	Date	Yes Votes	No Votes
Concurrence	August 31, 2020	73	0
Senate Floor	August 30, 2020	35	2
Assembly Floor	June 8, 2020	74	0

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