

Date of Hearing: May 19, 2020
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 2847 (Chiu) – As Amended May 7, 2020

SUMMARY: Requires commencing July 1, 2022 all semiautomatic pistols not already listed on the Department of Justice (DOJ) roster of not unsafe handguns be equipped with chamber load indicators, magazine disconnect mechanisms, and microstamping technology. Specifically, **this bill:**

- 1) Requires commencing July 1, 2022 for all semiautomatic pistols that are not already listed on the DOJ roster of not unsafe handguns, be designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol, etched or otherwise imprinted in one or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired.
- 2) Requires commencing July 1, 2022 for all semiautomatic pistols that are not already listed on the DOJ roster of not unsafe handguns be equipped with a chamber load indicator and a magazine disconnect mechanism if it has a detachable magazine.
- 3) Provides that the DOJ shall, for each newly added semiautomatic pistol added to the roster of not unsafe handguns, remove from the roster exactly three semiautomatic pistols lacking a chamber load indicator, magazine disconnect mechanism, or microstamping technology. Each semiautomatic pistol removed from the roster shall be considered an unsafe handgun. The Attorney General (AG) shall remove semiautomatic pistols from the roster in reverse order of their date of addition to the roster.
- 4) Contains numerous Legislative findings and declarations.

EXISTING LAW:

- 1) Requires commencing January 1, 2010 for all semiautomatic pistols that are not already listed on the roster of not unsafe handguns, be designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol, etched or otherwise imprinted in two or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired, provided that the DOJ certifies that the technology is available to more than one manufacturer unencumbered by any patent restrictions. (Pen. Code, § 31910, subd. (b)(7)(A).)
- 2) Requires commencing January 1, 2001, that any person in California who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year. (Pen. Code, § 32000, subd. (a).) Specifies that this section shall not

apply to any of the following:

- a) The manufacture in California, or importation into this state, of any prototype pistol, revolver, or other firearm capable of being concealed upon the person when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the DOJ to conduct an independent test to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person is prohibited, inclusive, and, if not, allowing the department to add the firearm to the roster of pistols, revolvers, and other firearms capable of being concealed upon the person that may be sold in this;
 - b) The importation or lending of a pistol, revolver, or other firearm capable of being concealed upon the person by employees or authorized agents of entities determining whether the weapon is prohibited by this section;
 - c) Firearms listed as curios or relics, as defined in federal law; and,
 - d) The sale or purchase of any pistol, revolver, or other firearm capable of being concealed upon the person, if the pistol, revolver, or other firearm is sold to, or purchased by, the Department of Justice, any police department, any sheriff's official, any marshal's office, the Youth and Adult Correctional Agency, the California Highway Patrol, any district attorney's office, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. Nor shall anything in this section prohibit the sale to, or purchase by, sworn members of these agencies of any pistol, revolver, or other firearm capable of being concealed upon the person. (Pen. Code, § 32000, subd. (b).)
- 3) Specifies that violations of the unsafe handgun provisions are cumulative with respect to each handgun and shall not be construed as restricting the application of any other law. (Pen. Code, § 32000, subd. (c).)
 - 4) Defines "unsafe handgun" as "any pistol, revolver, or other firearm capable of being concealed upon the person, as specified, which lacks various safety mechanisms, as specified." (Pen. Code, § 31910.)
 - 5) Requires any concealable firearm manufactured in California, imported for sale, kept for sale, or offered for sale to be tested within a reasonable period of time by an independent laboratory, certified by the state Department of Justice (DOJ), to determine whether it meets required safety standards, as specified. (Pen. Code, § 32010, subd. (a).)
 - 6) Requires DOJ, on and after January 1, 2001, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold in this state, as specified. The roster shall list, for each firearm, the manufacturer, model number, and model name. (Pen. Code, § 32015, subd. (a).)
 - 7) Provides that DOJ may charge every person in California who is licensed as a manufacturer of firearms, as specified, and any person in California who manufactures or causes to be manufactured, imports into California for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in

California, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster of firearms determined not be unsafe, and the costs of research and development, report analysis, firearms storage, and other program infrastructure costs, as specified. (Pen. Code § 32015, subd. (b)(1).)

- 8) Provides that the Attorney General (AG) may annually test up to 5 percent of the handgun models listed on the roster that have been found to be not unsafe. (Pen. Code, § 30020, subd. (a).)
- 9) States that a handgun removed from the roster for failing the above retesting may be reinstated to the roster if all of the following are met:
 - a) The manufacturer petitions the AG for reinstatement of the handgun model;
 - b) The manufacturer pays the DOJ for all the costs related to the reinstatement testing of the handgun model, including purchase of the handgun, prior to reinstatement testing;
 - c) The reinstatement testing of the handguns shall be in accordance with specified retesting procedures;
 - d) The three handgun samples shall only be tested once. If the sample fails it may not be retested;
 - e) If the handgun model successfully passes testing for reinstatement, as specified, the AG shall reinstate the handgun model on the roster of not unsafe handguns;
 - f) Requires the handgun manufacturer to provide the AG with the complete testing history for the handgun model; and,
 - g) Allows the AG, at any time, to further retest any handgun model that has been reinstated to the roster. (Pen. Code, § 32025, subds. (a)-(g).)
- 10) Provides that a firearm may be deemed to be listed on the roster of not unsafe handguns if a firearm made by the same manufacturer is already listed and the unlisted firearm differs from the listed firearm in one or more of the following features:
 - a) Finish, including, but not limited to bluing, chrome plating or engraving;
 - b) The material from which the grips are made;
 - c) The shape or texture of the grips, so long as the difference in grip shape or texture that does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the firearm; and,
 - d) Any other purely cosmetic feature that does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the firearm. (Pen Code, § 32030, subd. (a).)

- 11) Requires any manufacturer seeking to have a firearm listed as being similar to an already listed firearm to provide the DOJ with the following:
 - a) The model designation of the listed firearm; and
 - b) The model designation of each firearm that the manufacturer seeks to have listed on the roster of not unsafe handguns;
- c) Requires a manufacturer to make a statement under oath that each unlisted firearm for which listing is sought differs from the listed firearm in only one or more specified ways, and is otherwise identical to the listed firearm. (Pen Code, § 32030, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "This bill strengthens California's Unsafe Handgun Act (UHA) to ensure that new firearms are introduced that incorporate microstamping technology and comply with the UHA's other safety requirements.

"AB 2847 eases compliance by requiring that newly developed semiautomatic pistol models etch microstamping characters on one place on the interior of the firearm, as opposed to two as currently required. Additionally, AB 2847 furthers implementation of the new UHA requirements by directing the Attorney General to remove three previously grandfathered handgun models from the roster for each new compliant handgun model that is introduced.

"Microstamping technology will significantly improve law enforcement's ability to identify shooters and gun traffickers, apprehend them before they do more harm, and hold them accountable. Incorporating other UHA design safety standards in more handguns sold in California would also help prevent accidental shootings."

- 2) **Attorney General Certification:** AB 1471 (Feuer), Chapter 573, Statutes of 2007, required, effective January 1, 2010, semiautomatic pistols not already designated as a safe handgun, to be equipped with microscopic identifying markings which are transferred to each cartridge case when the firearm is fired in order for the firearm to be placed on the roster of not unsafe handguns. The implementation of AB 1471 was delayed until the AG certified that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions.

On May 17, 2013, the DOJ certified the microstamping technology required by AB 1471 (2013-BOF-03). The DOJ stated, "The purpose of this bulletin is to inform California licensed firearms dealers, California DOJ certified laboratories, firearm manufacturers with firearms listed on the Roster of Handguns Certified for Sale in California, and all other interested persons/entities of the DOJ's certification on May 17, 2013 pursuant to Penal Code Section 31910, subd. (b)(7)(A) that the microstamping technology is available to more than one manufacturer unencumbered by any patent restrictions."

- 3) **Removal of Firearms from the DOJ Roster of “Not Unsafe” Handguns:** This bill requires that commencing July 1, 2022, semiautomatic handguns must be equipped with microstamping technology, chamber load indicators, and magazine disconnect mechanisms in order to be listed on the DOJ roster of “not unsafe” handguns that can lawfully be sold in the State. However, for each new model added to the roster, the DOJ will be required to remove from the roster three semiautomatic pistol that lacks one or more of the above features in reverse order of their addition to the roster. This would appear to be a disincentive for firearms manufacturers to add new models to the roster because three other semiautomatic pistols that they manufacture, currently considered not unsafe, would be removed. Will manufacturers add new models with the required features?
- 4) **Argument in Support:** *Brady United Against Gun Violence* states, “The gun industry has acknowledged that microstamping is entirely feasible, but has maintained that it is not possible to microstamp two separate places on the interior of the firearm as is the current mandate under the Unsafe Handgun Act (UHA). Although it is entirely practicable to have two engravings, it is not necessary. One engraving on the firing pin of a firearm reliable provides law enforcement the available and necessary information concerning the gun. AB 2847 therefore eases this requirement by mandating that newly developed semiautomatic pistol models engrave microstamping characters on just one place on the interior of the firearm, the firing pin, as opposed to two. Gun manufactures can easily and affordably comply with this mandate as well as the other important UHA quality and safety standards.

“Additionally, AB 2847 furthers implementation of the UHA requirements by directing the Attorney General to remove three previously grandfathered handgun models from the roster of certified handguns that may be manufactured and sold in California, for each new compliant handgun model that is introduced. This will guarantee a progressive movement towards ensuring that one day all firearms in California will be in compliance with the important and life-saving standards outlined in the UHA.

“In short, the microstamping mandate in AB 2847 will significantly improve law enforcement’s ability to identify shooters and gun traffickers, apprehend them before they do more harm, and hold them accountable. Also, AB 2847 will ensure that more, and eventually all, handguns sold in CA will comply with the other important UHA design safety standards on a rolling basis. These standards work to prevent unintentional shootings and will protect California consumers.”

- 5) **Argument in Opposition:** The *California Sportsman’s Lobby* argues, “AB 2847 would substantially reduce the number of ‘not unsafe’ pistols presently available to California sportsmen to buy, is opposed by the California Sportsman’s Lobby.

“It would do so, commencing July 1, 2022, by requiring that new pistols added to the states, ‘not unsafe’ handgun roster possess microstamping technology in centerfire pistols that would imprint the make, model, and serial number in one place on empty cartridge casings from ammunition discharged from the pistol; a chamber load indicator for centerfire semiautomatic pistols; and, a magazine disconnect feature that would prevent discharge of the firearm if its detachable magazine is removed for both centerfire and rimfire semiautomatic pistols.

“The bill would require the removal of three models of semiautomatic pistols now on the

roster of 'not unsafe' handguns if they lack one or more of the above features each time a new model is added.

"The models currently on the roster are popular, not unsafe, and should continue to be available to sportsmen and other lawful individuals regardless of whether new models are added. If the new models that comply with the requirements of AB 2847 are added to the roster, the current list of pistols that sportsmen and others can buy will eventually be reduced by two-thirds, even though such models are not unsafe."

- 6) **Prior Legislation:** AB 2733 (Harper), of the 2017-2018 Legislative Session, would have deleted the requirement that firearms be manufactured with micro-stamping technology that leaves an imprint on each cartridge case when the firearm is fired. AB 2733 failed passage in this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady United Against Gun Violence- Oakland/alameda County
 Cleveland School Remembers-brady Campaign to Prevent Gun Violence Chapter
 Coalition Against Gun Violence, a Santa Barbara County Coalition
 Coalition to Stop Gun Violence
 Friends Committee on Legislation of California
 Giffords Law Center to Prevent Gun Violence
 Jewish Center for Justice
 Los Angeles City Attorney
 March for Our Lives California
 Neveragain.ca
 San Diego Chapter - Brady United Against Gun Violence
 San Francisco Chapter - Brady United Against Gun Violence
 Santa Clara County District Attorney's Office
 St. Paul's Cathedral, San Diego
 The Violence Prevention Coalition of Orange County
 United Nations Association of The USA - San Diego Chapter
 Youth Alive!

Oppose

California Rifle and Pistol Association, INC.
 California Sportsman's Lobby, INC.
 Gun Owners of California, INC.
 National Rifle Association - Institute for Legislative Action
 Outdoor Sportsmen's Coalition of California
 Peace Officers Research Association of California (PORAC)
 Safari Club International - California Chapters
 San Bernardino County Safety Employees' Benefit Association

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