

Date of Hearing: April 6, 2021
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 669 (Lackey) – As Introduced February 12, 2021

SUMMARY: Exempts the sale or purchase of a handgun, not on the Department of Justice (DOJ) roster of not unsafe handguns, by a county probation department for use by, sold to, or purchased by any sworn member thereof who has satisfactorily completed the firearms portion of a training course prescribed by the Commission on Peace Officer Standards and Training (POST), and who as a condition of carrying that handgun, completes a live-fire qualification prescribed by their employing entity at least once every six months.

EXISTING LAW:

- 1) 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 Department of Justice (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 state;
 - 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).)

- 2) 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).)
- 3) 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.)
- 4) 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.)
- 5) 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).)
- 6) 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).)
- 7) 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).)
- 8) States that a handgun removed from the roster for failing the above re-testing 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).)
- 9) 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).)
- 10) 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;
 - b) The model designation of each firearm that the manufacturer seeks to have listed on the roster of not unsafe handguns; and,
 - 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, "AB 2699 (Santiago) made changes to the non-roster firearm requirements enacted in AB 2165 (Bonta) in 2016. AB 2699 inadvertently affected probation officers who are NOT required to complete the POST basic course as a condition of hire or continued employment. Instead, county Probation training requirements are mandated through Standards and Training for Corrections 'STC'. The current language prohibits Probation Officers from using non-roster firearms on duty because of the POST basic course requirement and would force Probation Departments to purchase new firearms. It would also have the long-term effect of forcing county probation departments to purchase new firearms anytime a department issued rostered firearm falls off the list and becomes a

non-roster firearm.

- 2) **“Unsafe” Handgun Law:** SB 15 (Polanco), Chapter 248, Statutes of 1999, made it a misdemeanor for any person in California to manufacture, import for sale, offer for sale, give, or lend any unsafe handgun, with certain specific exceptions. SB 15 defined an "unsafe handgun" as follows: (a) does not have a requisite safety device, (b) does not meet specified firing tests, and (c) does not meet a specified drop safety test.
 - a) *Required Safety Device:* The Safe Handgun Law requires a revolver to have a safety device that, either automatically in the case of a double-action firing mechanism or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge or in the case of a pistol have a positive manually operated safety device.
 - b) *Firing Test:* In order to meet the "firing requirements" under the Safe Handgun Law, the manufacturer must submit three unaltered handguns, of the make and model for which certification is sought, to an independent laboratory certified by the Attorney General. The laboratory shall fire 600 rounds from each gun under certain conditions. A handgun shall pass the test if each of the three test guns fires the first 20 rounds without a malfunction, and fires the full 600 rounds without more than six malfunctions and without any crack or breakage of an operating part of the handgun that increases the risk of injury to the user. "Malfunction" is defined as a failure to properly feed, fire or eject a round; failure of a pistol to accept or reject a manufacturer-approved magazine; or failure of a pistol's slide to remain open after a manufacturer approved magazine has been expended.
 - c) *Drop Test:* The Safe Handgun Law provides that at the conclusion of the firing test, the same three manufacturer's handguns must undergo and pass a "drop safety requirement" test. The three handguns are dropped a specified number of times, in specified ways, with a primed case (no powder or projectile) inserted into the handgun, and the primer is examined for indentations after each drop. The handgun passes the test if each of the three test guns does not fire the primer
- 3) **Failure to Pay a Fee may Result in a Weapon Being Deemed “Unsafe”:** DOJ deems some weapons to be “unsafe” because a particular gun manufacturer has not paid the appropriate fees and/or submitted the proper paperwork. The weapons themselves may be "safe" under the standards listed above, and perfectly capable of passing all three firing tests, but they are deemed "unsafe" for purposes of categorization. Many law enforcement agencies still use these weapons and there are numerous exemptions to the “unsafe” handgun law that allows those agencies to continue to use and possess them. This bill would add additional agencies to the exemptions list in order to avoid the cost of replacing firearms that are listed as “unsafe” despite being capable of complying with the firing tests.
- 4) **Argument in Support:** According to the *State Coalition of Probation Organizations*, “As you know, AB 669 would reinstate for county probation departments the prior requirements under AB 2165 (Bonta) which were inadvertently affected by AB 2699 (Santiago) by removing the ‘Post Basic course’ requirement for county probation departments thus

preventing the need for county probation departments to replace non-roster firearms that have been in use for several years.

“AB 669 will exempt sales to or purchases by a county probation department and sworn members thereof who have completed the firearms portion of a training course prescribed by POST pursuant to Section 832, and who, as a condition of carrying that handgun, completes a live-fire qualification prescribed by their employing entity at least once every six months.

“One additional benefit of AB 669 is that it would eliminate the need for probation departments to purchase new firearms because of the statutory change described, or anytime a rostered firearms falls off the list and becomes a non-roster firearms. Needless to say, the purchase of new firearms would be very costly.”

- 5) **Argument in Opposition:** According to *Brady United Against Gun Violence*, “Law enforcement officers who have completed the entire Basic Police Officer Standards and Training Course have long been exempt from the restrictions in the Unsafe Handgun Act.

“However, in recent years, the list of exempt agencies had grown without and mandate for such training. Last year, AB 2699 closed this loophole by explicitly mandating full POST training for all law enforcement officers who seek to purchase off-roster firearms (i.e. firearms that have not been certified for sale or manufacture by the California DOJ under the UHA). AB 669 would reinstate the loophole that AB 2699 had closed by carving out an exemption from the UHA for county probation officers, allowing them to complete only the firearms portion of POST training. Notably, county probation officers are not seeking this carve-out because they *need* to carry an off-roster gun for any substantive reason or are unable to complete full POST training. Instead, they simply *prefer* models of handguns that are not one of the more than 800 on-roster models available and also *prefer* not to undergo full POST training. Brady and Brady California oppose AB 669 because it seeks to undo AB 2699 by arbitrarily exempting county probation departments and their officers from the full POST training that both protects law enforcement and mitigates risks to the public and that other law enforcement officers must complete.

“AB 669’s provision to require probation officers to complete only the firearms portion of the training course in order to be exempt from the UHA – rather than the full POST training mandated by AB 2699 – will likely inject more unsafe handguns into the state, presenting a grave danger to the people of California. As AB 2699 recognized, it is essential that law enforcement officers complete the entire POST training to fully understand how to handle dangerous firearms. There have been many instances of well-trained sworn officers unintentionally firing their service weapons. Without that mandated extensive training and periodic re-training, those newly entitled to own unsafe handguns will be a greater risk to themselves and others.”

REGISTERED SUPPORT / OPPOSITION:

Support

State Coalition of Probation Organizations (Sponsor)
Association of Orange County Deputy Sheriff's
Association of Probation Supervisors of Los Angeles County
Chief Probation Officers of California
El Dorado County Probation Officers Association
Fraternal Order of Police, Southern California Probation, Lodge# 702
Kern County Probation Officers Association
N. California Probation Lodge 19, California Fraternal Order of Police
Riverside Sheriffs' Association
Sacramento County Probation Association
San Joaquin County Probation Officers Association
Sutter County Probation Officers Association
Ventura County Professional Peace Officers Association

Oppose

Brady Campaign
Brady Campaign California

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