SB 1160 (Portantino) - Firearms

Version: April 24, 2024  Policy Vote: PUB. S. 4 - 0  
Urgency: No  Mandate: Yes  
Hearing Date: May 6, 2024  Consultant: Liah Burnley

Bill Summary: SB 1160 makes it an aggravated misdemeanor for a person to openly carry an unloaded handgun when the handgun and unexpended ammunition are in immediate possession of the person and the person is not listed with the Department of Justice (DOJ) as the owner of that handgun.

Fiscal Impact:

- Unknown, potentially significant workload cost pressures (General Fund, Trial Court Trust Fund) to the courts to adjudicate charges brought against defendants who violate the bill’s prohibition. A defendant charged with a misdemeanor is entitled to a no cost legal representation and a jury trial. If 10 new misdemeanors are filed annually statewide and proceed to trial resulting in the use of two days of court time, at an estimated cost of approximately $8,300 for an eight-hour court day, the approximate cost to the trial courts is $166,000. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and pressure to fund additional staff and resources. The Governor’s 2024-25 state budget proposes $83.1 million ongoing General Fund to continue to backfill the Trial Court Trust Fund for expected revenue declines.

- Potential non-reimbursable annual costs in the hundreds of thousands of dollars to low millions of dollars to counties (local funds) for increased incarceration costs. The average annual cost to incarcerate a defendant in county jail is approximately $29,000. If 10 defendants statewide are sentenced annually to county jail for carrying an unloaded handgun, the total cost to counties would be $290,000. California county jails are increasingly overcrowded – particularly since the enactment of the Realignment Act in 2011. Although new crimes are not considered reimbursable state mandates pursuant to Proposition 30 (2012), overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding since 2011.

Background: California law generally prohibits people from carrying loaded firearms in public, regardless of whether they are concealed. A violation of the prohibition on the open or concealed carry of loaded firearms is punishable as either a felony or a misdemeanor depending on the circumstances. Existing law also prohibits openly carrying unloaded handguns while in various specified public locations. This offense which is generally punishable as a misdemeanor (maximum 6 months in jail). However, if the handgun is possessed in a public place or on a public street in an incorporated city, compatible ammunition is in the ‘immediate possession’ of that person, and the person is not in lawful possession of the handgun, existing law imposes the penalty of
aggravated misdemeanor, which is punishable by up to a year in county jail. Additionally, any person convicted of openly carrying an unloaded handgun is subject to a 10-year ban on the purchase and possession of firearms

**Proposed Law:** This bill increases the penalty for openly carrying an unloaded handgun to situations where the person is not listed with the DOJ in the Automated Firearms System as the owner of that gun, even if the person lawfully possesses it. This offense would be punishable as a misdemeanor, by up to one year imprisonment in county jail.

**Related Legislation:** AB 2739 (Maienschein, 2024) provides that any unloaded openly carried handgun is a public nuisance and shall be surrendered to law enforcement, subject to limited exceptions. AB 2739 is pending on the Assembly Floor.

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