
THIRD READING

Bill No: SB 2
Author: Portantino (D), et al.
Amended: 3/1/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/28/23
AYES: Wahab, Bradford, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SUBJECT: Firearms

SOURCE: Author

DIGEST: This bill restructures and recasts provisions of law related to carrying concealed firearms in response to a recent United States Supreme Court decision invalidating a concealed carry law in New York similar to California's.

ANALYSIS:

Existing law:

- 1) Establishes various prohibitions and criminal penalties related to the possession of firearms in or around specified government buildings, buildings comprising the Capitol complex in downtown Sacramento, the residences of the Governor and other constitutional officers, airports and other specified public transit facilities. (Pen. Code, §§ 171b, 171c, 171d, 171.5, 171.7.)
- 2) Establishes, under the Gun Free School Zone Act of 1995, various restrictions and penalties regarding the possession and use of firearms in school zones, as defined. (Pen. Code, §626.9.)

- 3) Prohibits a person from carrying a concealed firearm within a vehicle, as specified. (Pen. Code §25400(a).)
- 4) Provides that existing law shall not be construed to prohibit any citizen, as specified, from transporting or carrying any firearm capable of being concealed upon the person provided that the firearm is within a motor vehicle and locked in the trunk or in a locked container, or is carried by the person directly to or from any motor vehicle for any lawful purpose, and while carrying the firearm, the firearm is within a locked container. (Pen. Code §25610.)
- 5) Provides that the sheriff of a county may issue a CCW license upon proof of an applicant's good moral character, good cause for the license, completion of a specified training course, and certain residency requirements. (Pen. Code, § 26150.)
- 6) Provides that the head of a city or county's police department may issue a CCW license upon proof of an applicant's good moral character, good cause for the license, completion of a specified training course, and certain residency requirements. (Pen. Code, § 26155.)
- 7) Requires applicants for a CCW to complete a course of training that meets specified criteria. (Pen. Code, §§ 26150(a)(4), 26155(a)(4), 26165.)
- 8) Provides that any sheriff or police chief may issue a specified CCW license to one of their peace officers upon proof of an applicant's good moral character, good cause for the license, and proof of peace officer status. The sheriff or police chief may consider the applicant's peace officer status for the purpose of issuing a license only under this section of the Penal Code. (Pen. Code, § 26170.)
- 9) Requires that the DOJ develop a standard, uniform CCW license to be used throughout the state and requires that the license bear the licensee's name, occupation, residence, business address, age, height, weight, eye color, hair color, reason for desiring CCW, description of the specific firearm authorized under the CCW license which includes the manufacturer name, serial number, and caliber of the firearm. (Pen. Code, § 26175.)
- 10) Requires an applicant to submit fingerprints to the DOJ before a CCW license can be issued; however, does not require submittal of fingerprints in cases where an applicant has previously applied for a CCW license, or if a current licensee has previously forwarded their fingerprints to the DOJ. (Pen. Code, § 26185.)

- 11) Provides that CCW applicants must pay a fee in an amount determined by the Department of Justice, and that the licensing authority of any city, county, or city and county shall impose an additional fee to cover reasonable costs for processing, issuing and enforcing the license. (Pen. Code, §26190(a), (b).)
- 12) Permits the local licensing authority to charge an additional fees, as specified. (Pen. Code, §26190(c), (e), (f).)
- 13) Specifies the circumstances under which a CCW shall not be issued or shall be revoked by the licensing authority. (Pen. Code, §26195)
- 14) Provides that a CCW license may include reasonable restrictions or conditions that the issuing authority deems warranted, and that any restrictions so imposed must be indicated on any license issued. (Pen. Code, §26200).
- 15) Provides that a CCW license is valid for any period of time not to exceed two years from the date of the license. (Pen. Code §26220.)
- 16) Provides that a licensing authority must report to the DOJ the reasons for issuing, revoking, denying, or denying an amendment to a CCW license, and must submit to the DOJ the total number of licenses issued to peace officers and judges. (Pen. Code, § 26225.)
- 17) Authorizes the DOJ to require a firearms dealer to charge each firearm purchaser a fee in the amount of thirty-one dollars and nineteen cents (\$31.19), which may be increased at a rate no more than any increase in the California Consumer Price Index. (Pen. Code, § 28233(a), (c).)
- 18) Requires that fees collected pursuant to Pen. Code §28233(a) be deposited in the Dealer's Record of Sale (DROS) Supplemental Subaccount within the DROS Special Account of the General Fund, and authorizes the expenditure of those funds by the DOJ to offset the reasonable costs of specified firearms-related regulatory and enforcement activities. (Pen. Code, § 28233(b).)
- 19) Provides that, commencing July 1, 2019, the DOJ shall electronically approve the purchase or transfer of ammunition through a vendor, and establishes related guidelines and eligibility criteria. (Pen. Code, § 30370(a), (b).)
- 20) Requires the DOJ to develop a procedure by which a person who is not prohibited from purchasing or possessing ammunition may be approved for a single ammunition transaction or purchase. (Pen. Code, § 30370(c).)

- 21) Requires the DOJ to recover its costs under Penal Code §30370 by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process, as described in Penal Code Section 28225, and not to exceed the DOJ's reasonable costs. (Pen. Code, § 30370(c).)

This bill:

- 1) Sets forth various findings and declarations related to the constitutionality of regulations related to the public carry of firearms and the effect of publicly carrying firearms on public health and the exercise of individual rights.
- 2) Provides that a justice, judge or commissioner of the court licensed to carry a firearm in public and who possesses the firearm within a building designated for a court proceeding, as specified, is exempt from the prohibition against possessing a firearm within any state or local public building or at any meeting required to be open to the public, as specified.
- 3) Makes it a crime to bring a firearm, whether loaded or unloaded, upon the grounds of or within the Governor's mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.
- 4) Provides that it is unlawful for any person to knowingly possess any firearm in any building, real property, or parking area under the control of an airport, except as provided.
- 5) Creates an exemption to the prohibition above for persons possessing an unloaded firearm being transported in accordance with Transportation Security Administration regulations, which require a hard-sided, locked container, so long as the person is not within any sterile area of an airport or a passenger vessel terminal.
- 6) Provides that it is unlawful for any person to knowingly possess any undetectable firearm, as defined, in a public transit facility.
- 7) Provides that the prohibition against the possession of a firearm in a school zone (the Gun Free School Zone Act of 1995) does not apply when the firearm is an unloaded pistol, revolver or other firearm capable of being concealed on the person and is within a locked container in a motor vehicle or is within the locked trunk of a motor vehicle at all times.
- 8) Provides that the prohibition against the possession of a firearm in a school zone does not apply when the person holds a valid license to carry the firearm,

who is carrying that firearm in an area that is within 1,000 feet from the grounds of the public or private school, but is not within any building, real property, or parking area under the control of the school or on a street or sidewalk immediately adjacent to a building, real property, or parking area under the control of the school.

- 9) Provides that if any provision in Division 5, Title 4, Part 6 of the Penal Code is for any reason held unconstitutional, that decision does not affect the validity of any other provision in the division, and declares that the Legislature would have passed the provisions listed in that division irrespective of the fact that one or more of them may be declared unconstitutional.
- 10) Provides that the prohibition against carrying a concealed firearm (Section 25400) shall not be construed to prohibit any citizen from transporting or carrying a concealable firearm for specified purposes, provided that either of the following applies to the firearm: it is unloaded within a motor vehicle and locked in the trunk or in a locked container, or it is unloaded and carried by the person directly to or from any motor vehicle and is in a locked container.
- 11) Provides that when a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed on the person, the sheriff of a county shall issue or renew a license to that person upon proof that the applicant is not a disqualified person to receive such a license, as provided, is at least 21 years of age and presents clear evidence of identity and age, is the recorded owner of the firearm, has completed a training course, as provided, and is a resident of the county or a city within the county or is employed within the county.
- 12) Provides that when a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed on the person, the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that person upon proof that the applicant is not a disqualified person to receive such a license, as provided, is at least 21 years of age and presents clear evidence of identity and age, is the recorded owner of the firearm, has completed a training course, as provided, and is a resident of the city or city and county.
- 13) Provides that, prior to the issuance of a license, renewal of a license, or amendment to a license, each licensing authority with direct access to the designated Department of Justice system shall determine if the applicant is the recorded owner of the particular pistol, revolver, or other firearm capable of

being concealed upon the person reported in the application for a license or the application for the amendment to a license.

- 14) Provides that an agency with direct access to the designated Department of Justice system shall confirm the applicant's information with firearm ownership maintained in the system, and that an agency without access to the system shall confirm this information with the sheriff of the county in which the agency is located.
- 15) Provides that, for new license applicants, the required course of training must meet specified minimum criteria, and that for renewal applicants, the required course shall meet these criteria and be no less than 8 hours in length.
- 16) Provides that any sheriff or police chief may issue a specified CCW license to one of their peace officers upon proof that the applicant is not a disqualified person to receive such a license, is at least 21 years of age, has been deputized or appointed as a peace officer, as specified, and is the recorded owner of the firearm for which the license will be issued, or is authorized to carry a firearm that is registered to the agency for which the licensee has been deputized or appointed to serve as a peace officer.
- 17) Sets forth a procedure by which the design standards for licenses issued by local agencies, which may be used as proof of licensure throughout the state, may be issued and revised by a committee composed of specified members.
- 18) Specifies which information shall be required from the applicant on the standard application form and which information shall appear on the license issued, and specifies which addresses may be used instead of a residence or business address on the application and license.
- 19) Reorganizes the fee structure for local licensing authorities, and provides that local fees may be increased to reflect reasonable costs.
- 20) Provides that a license shall be revoked if at any time the licensing authority determines or is notified by the DOJ of any one of several specified circumstances is met.
- 21) Provides that while carrying a concealed firearm pursuant to a license, a licensee shall not engage in specified behavior.
- 22) Provides that a licensee authorized to carry a firearm pursuant to its provisions and existing law shall not carry more than two firearms under the licensee's control at one time.

- 23) Provides that unless a court makes a contrary determination, an applicant shall be deemed to be a disqualified person to receive or renew a license if the applicant is or has previously engaged in specified unlawful behavior.
- 24) Provides that in order to determine whether an applicant is a qualified person to receive or renew a license, the licensing authority shall conduct an investigation that meets, but is not limited to, specified minimum requirements.
- 25) Requires the licensing authority, within 90 days of receiving the initial completed application for a new license or renewal, to give written notice to the applicant, as specified, of the authority's initial determination as to whether the applicant is a disqualified person, and sets forth procedures related to the approval or denial of an application after initial determination.
- 26) Provides that a person granted a license to carry a pistol, revolver or other firearm capable of being concealed upon the person shall not carry a firearm on or into any of several specified "sensitive places."
- 27) Adds misdemeanor convictions for several crimes related to carrying a concealed, loaded or unloaded handgun or other firearm to the list of offenses that trigger a 10-year ban on the purchase and possession of firearms, but provides that those convictions must occur after January 1, 2024.
- 28) Requires the DOJ to recover its costs under Penal Code §30370 by charging a fee not to exceed the fee charged for the DROS process described in Penal Code §28225, as it read on December 31, 2019.

Comments

According to the author, "'Gun violence continues to plague our communities. More guns in more places means more people are going to lose their lives. Although crime rates dropped throughout the country from 1977 to 2014, states that rolled back their firearm safety laws have bucked that trend in recent years—for example, the adoption of right-to-carry laws by a state led to a 13-15% increase in violent crime over the next 10 years. The presence of firearms in public increases the dangers of intentional or accidental gun violence—at the workplace, at the movies, or on the road. One study showed that states with permissive right to carry laws experience 29% more workplace homicides than states with more restrictive licensing requirements.

"The Supreme Court's decision in *New York Rifle and Pistol Association v. Bruen* changed the way states assess who may carry a concealed weapon in public, but it

did not remove the ability of states to address this critical issue. In fact, it provided a roadmap for doing so. *Bruen* affirmed the ability of states to keep firearms out of the hands of dangerous individuals and out of certain sensitive places. With SB 2, California does just that. It provides objective, reasonable guidance that prevents CCW permits from being issued to dangerous individuals and provides a list of places where weapons may not be carried. These “sensitive places” range from areas where other rights are exercised—like the voting booth—to areas where sensitive people gather—like parks and playgrounds. California is proud of its record on gun safety and will not stop working to improve our laws to protect the public.”

In an effort to bring California law regarding CCW permits into alignment with *Bruen*, this bill removes the discretion that local licensing authorities currently have and make California a “shall issue” state, requiring the issuance of a CCW if certain conditions are met. Among these conditions is a determination that an applicant is not a “disqualified person,” which means, among other criteria, that the applicant has not been charged with or convicted of specific offenses, has not engaged in the reckless use or display of a firearm, is not abusing controlled substances, has not experienced the loss or theft of multiple firearms, as specified, and is not reasonably likely to be a danger to themselves, others or the community at large. In addition, this bill raises the minimum age requirement to obtain a CCW to 21 years of age, requires applicants to undergo an interview process and submit three character references to the licensing authority, and take additional firearm storage and safety training than is currently required under existing law. This bill also imposes several restrictions on licensees carrying a firearm, primarily related to consumption of alcohol and controlled substances and interaction with police officers. Additionally, this bill contains several provisions prescribing a process by which applicants must be notified of their eligibility to obtain a CCW and may request a hearing to challenge a determination by a licensing authority that they are a “disqualified person.”

Another major provision of this bill purports to further conform California concealed carry law to *Bruen* by designating several “sensitive places” where CCW licensees would be prohibited from carrying their firearms. This bill lists 26 specific places, as well as any other place prohibited by local, state or federal law. Those places include: all daycare and school grounds, college campuses, government and judicial buildings, medical facilities, public parks and playgrounds, correctional institutions, public transit, public demonstrations and gatherings, athletic and professional sporting facilities, public libraries, amusement parks, zoos and museums, places of worship, banks, polling places, gambling establishments, and any place where alcohol is sold.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- DOJ: The DOJ reports costs of \$9.8 million in 2023-24, \$17.2 million in 2024-25, \$16.8 million in 2025-26, \$13.9 million in 2026-27, and \$12.2 million ongoing thereafter (Fingerprint Fees Account, General Fund).*
- Judicial Branch: Unknown court workload cost pressures to the trial courts for increased staff time and resources to adjudicate petitions for review of CCW license denials (Trial Court Trust Fund, General Fund).*
- Local Costs: Unknown, possibly reimbursable costs, to local law enforcement agencies, including city police agencies and county sheriff offices to comply with the requirements in this bill for issuing CCWs (Local Funds, General Fund).*

SUPPORT: (Verified 5/17/23)

Brady Campaign to Prevent Gun Violence
California Academy of Family Physicians
California Catholic Conference
California Department of Justice
California School Employees Association
City of Los Angeles
City of San Diego
City of Santa Monica
County of Los Angeles Board of Supervisors
County of Santa Clara
Everytown for Gun Safety Action Fund
Giffords
League of Women Voters of California
Los Angeles Unified School District
March for Our Lives Action Fund
National Association of Pediatric Nurse Practitioners
Prosecutors Alliance California
Sutter Health
Women for American Values and Ethics Action Fund

OPPOSITION: (Verified 5/17/23)

Arcadia Police Officers' Association

Burbank Police Officers' Association
California Coalition of School Safety Professionals
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Fullerton Police Officers' Association
Gun Owners of California, Inc.
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
National Rifle Association – Institute for Legislative Action
Newport Beach Police Association
Orange County Sheriff's Department
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs Association
Pomona Police Officers' Association
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
San Bernardino County Sheriff's Department
Santa Ana Police Officers Association
Upland Police Officers Association

Prepared by: Alex Barnett / PUB. S. /
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