

Date of Hearing: June 27, 2023
Counsel: Mureed Rasool

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 2 (Portantino) – As Amended March 1, 2023

As Proposed to be Amended in Committee

SUMMARY: Removes the ‘good cause’ requirement for concealed carry weapons licenses (CCW licenses) and creates a new issuing process for CCW licenses following the U.S. Supreme Court ruling in *New York Rifle and Pistol Association v. Bruen* 142 S.Ct. 2111. Specifically, **this bill:**

- 1) Provides that when a person applies for a new or renewed CCW license to carry a pistol, revolver, or other firearm capable of being concealed on the person, the sheriff or police chief of a jurisdiction shall issue or renew the CCW license upon proof that the applicant is not a disqualified person, as specified, is at least 21 years of age, is the recorded owner of the firearm, has completed a training course, as provided, and is a resident of, or employed in, the jurisdiction.
- 2) 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 (DOJ) system shall determine if the applicant is the recorded owner of the particular firearm reported in the application.
- 3) States that, for new CCW applicants, the required course of training must meet all of the following minimum criteria:
 - a) No less than 16 hours in length;
 - b) Instruction on safe storage, legal transportation methods, laws governing where CCW licensees may carry, and laws regarding permissible use of lethal force in self-defense;
 - c) A component of at least one hour on mental health and mental health resources;
 - d) Except for the mental health component, the course shall be taught and supervised by DOJ certified firearm instructors;
 - e) Require students to pass a written examination; and,
 - f) Live-fire exercises, as specified.
- 4) Provides that, for renewal CCW applicants, the required course of training shall be no less than 8 hours and shall satisfy the other minimum criteria above.

- 5) States that a 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, as defined, 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 CCW 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.
- 6) Requires the Attorney General to issue forms to be used for licenses and applications for amendments to licenses, for use until 60 days after the effective date of these provisions.
- 7) Requires the Attorney General to convene a committee to revise the standard application form for licenses.
- 8) Provides that the committee convened by the Attorney General shall consist of one representative each from the California State Sheriffs Association, California Police Chiefs Association, and the DOJ.
- 9) States that, if the committee does not release a revised application form by 60 days after the effective date of these provisions, the Attorney General has the sole authority to revise the form. After the initial revised application is issued, if one of the committee members believes further revisions are needed, they can notify the rest of the members and revise the application with 3 months of the notification. Failure to agree upon the revisions will result in the Attorney General having sole authority to revise the application form.
- 10) 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 subsequently revised.
- 11) States that, among other things, a standard application form for a CCW license must require information regarding an applicant's prior detentions, arrests, criminal convictions, prior specified court orders, prior mental health commitments, whether the applicant has been previously denied a license to carry a firearm, or has had it revoked, three character references, including at least one cohabitant or specified domestic companion, if applicable, and other information sufficient to make a determination as to whether the applicant is a disqualified person.
- 12) Provides that completed applications for licenses shall contain all information required by the application, as determined by the licensing authority.
- 13) Mandates that a CCW license contain a licensee's picture, fingerprint, date of birth, an issuance and expiration date, the model of firearm, and a Criminal Identification and Information number, among other things.
- 14) States that the fingerprints and related information for each applicant shall be taken and forwarded by the appropriate licensing authority to the DOJ which shall make a determination, in a manner to be prescribed through regulations, as to whether the applicant is prohibited from possessing, or owning a firearm and furnish this information to the licensing authority. No new license shall be issued unless this information confirms the

applicant's eligibility to possess or own a firearm.

- 15) Permits a licensing authority to collect CCW license processing and enforcement related fees and states that the fees must reflect reasonable costs incurred by the authority.
- 16) Provides that local fees may be increased to reflect increases in the licensing authority's reasonable costs, but in no case shall they exceed those reasonable costs.
- 17) Provides that a CCW license shall be revoked if at any time the licensing authority determines or is notified by the DOJ of any of the following:
 - a) A licensee is prohibited by state or federal law from owning or purchasing a firearm;
 - b) A licensee has breached any of the conditions or restrictions relating to concealed carry licenses, as specified;
 - c) The licensee provided inaccurate or incomplete information on their application; or,
 - d) The licensee has become a disqualified person, as specified.
- 18) Prohibits a licensee shall not do any of the following while carrying a firearm as authorized by a CCW license:
 - a) Consume an alcoholic beverage or controlled substance, as specified;
 - b) Be in a place having a primary purpose of dispensing alcoholic beverages for onsite consumption;
 - c) Be under the influence of any alcoholic beverage, medication, or controlled substance, as specified;
 - d) Carry a firearm not listed on the license or a firearm for which they are not the recorded owner, unless they are a peace officer and have their service firearm;
 - e) Falsely represent to a person that the licensee is a peace officer;
 - f) Engage in an unjustified display of a deadly weapon;
 - g) Fail to carry the license on their person;
 - h) Impede a peace officer;
 - i) Refuse to display the license or to provide the firearm to a peace officer upon demand; and,
 - j) Violate any federal, state, or local criminal law.

- 19) States that a licensing authority may include additional reasonable restrictions or conditions as to the time, place, manner, and circumstances under which a CCW firearm may be carried.
- 20) Prohibits a CCW licensee from carrying more than two firearms under their control at one time.
- 21) 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:
 - a) Is reasonably likely to be a danger to self, or others, as provided;
 - b) Has been convicted of contempt of court, as specified;
 - c) Has been subject to a specified restraining order, protective order, or other court order unless that order expired, vacated, or was otherwise cancelled more than five years prior to the application;
 - d) Has been convicted of specified offenses within the previous 10 years;
 - e) Has engaged in an unlawful or reckless use, display or brandishing of a firearm;
 - f) In the previous 10 years, has been charged with specified offenses that were dismissed pursuant to a plea or a waiver, as specified;
 - g) In the previous five years, has been committed to or incarcerated in county jail or state prison for, or on probation, parole, post-release community supervision, or mandatory supervision, as a result of a conviction of an offense, an element of which involves controlled substances;
 - h) Within the previous 10 years has experienced the loss or theft of multiple firearms due to the applicant's lack of compliance with applicable laws; and,
 - i) Failed to report a loss of a firearm as required pursuant to existing law.
- 22) States that in order to determine whether an applicant is a disqualified person to receive or renew a license, the licensing authority shall conduct an investigation that meets, but is not limited to, specified minimum requirements.
- 23) 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.
- 24) Provides that if a new license or license renewal is denied or revoked based on a determination that the applicant is not a qualified person for such a license, the notice of this determination shall state the reason as to why the determination was made and also inform the applicant that they may request a hearing from a court to review the denial or revocation.

- 25) Requires the DOJ to develop a “Request for Hearing to Challenge Disqualified Person Determination” form, and provides that an applicant shall have 30 days after the receipt of the notice of denial to request a hearing to review the denial or revocation.
- 26) Provides that an applicant who has requested a hearing due to a denial or revocation shall be given a court hearing, after first exhausting any appeals required by the licensing authority, and specifies various procedural rules governing the court hearings.
- 27) Specifies that, in the appeal hearings, the district attorney shall bear the burden of showing, by a preponderance of the evidence, that the applicant is not a qualified person, and specifies how the court must rule if the district attorney meets, or does not meet, their burden.
- 28) Authorizes the DOJ to adopt emergency regulations to implement specified portions of these provisions, exempts such regulations from review by the Officer of Administrative Law, and limits the effect of the regulations to two years after the effective date of these provisions.
- 29) Enumerates places in which CCW licensees are not allow to carry, including: schools, courts, government buildings, correctional institutions, hospitals and other medical service facilities, airports, public transportation, specified public gatherings, businesses where liquor is sold for onsite consumption, public parks or athletic facilities, casinos, sports arenas, libraries, churches, zoos, museums, amusement parks, banks, voting centers, and any other privately-owned commercial establishment open to the public unless that establishment has a sign indicating licensees are allowed to possess their firearm, or if the firearm is transported as authorized by law.
- 30) Contains limited exceptions to the place restrictions related to the transport of a firearm within or in the immediate area surrounding a vehicle.
- 31) Adds specified firearm-possession offenses to the list of misdemeanors which, upon conviction, prohibit a person from possessing a firearm for a period of 10 years if the conviction occurs on or after January 1, 2024.
- 32) Corrects cross-references to regarding the Dealers’ Record of Sale (DROS) fund.
- 33) 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.
- 34) Contains a severability clause.

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 various restrictions and penalties regarding the possession and use of firearms in school zones, as defined. (Pen. Code, § 626.9.)
- 3) Prohibits, in general, a person from carrying a firearm in public, and provides certain exemptions, such as justifiable possession or transportation. (Pen. Code, §§ 25400, 25600, 25610, 25612, 25850, 26035, 26015, 26040, 26400, & 26405.)
- 4) 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.)
- 5) States 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.)
- 6) 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. (Pen. Code, § 26170.)
- 7) Requires every licensing authority issuing CCW licenses to publish and make available written policies summarizing CCW licensing requirements. (Pen. Code, § 26160.)
- 8) Requires applicants for a CCW to complete a course of training that meets specified criteria. (Pen. Code, §§ 26150, 26155, & 26165.)
- 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 DOJ, 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) Specifies the circumstances under which a CCW shall not be issued or shall be revoked by the licensing authority. (Pen. Code, § 26195.)
- 13) 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.)

- 14) States that a CCW license is valid for any period of time not to exceed two years from the date of the license, except as specified. (Pen. Code § 26220.)
- 15) States that a licensing authority must report to the DOJ the reasons for issuing, revoking, denying, or denying an amendment to a CCW license. (Pen. Code, § 26225.)
- 16) Provides that persons convicted of specified serious or violent misdemeanors are prohibited from possession of firearms for a period of 10 years and that a violation of that prohibition is punishable as a misdemeanor with imprisonment up to one year or as a state prison felony. (Pen. Code, § 29805.)
- 17) Authorizes the DOJ to require firearms dealers to charge each firearm purchaser a fee not to exceed \$1, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index. (Pen. Code, § 28225, subd. (a).)
- 18) Provides that the fee shall be no more than is necessary to fund specified governmental notification and reporting functions including but not limited to DOJ's cost of furnishing specified firearm information, local mental health facility costs pursuant to firearm reporting requirements, and local law enforcement agency costs related to firearm reporting requirements. (Pen. Code, § 28225, subd. (b).)
- 19) Authorizes the DOJ to charge firearms dealers a fee not exceeding \$14 for costs associated with the preparation processing, or filing of forms related to the sale, purchase, acquisition, or other type of transfer of firearms. (Pen. Code, § 28230.)
- 20) Creates the DROS Special Account of the General Fund and makes available, upon appropriation by the Legislature, funds to offset the costs incurred by the DOJ for specified firearms related activities except for activities covered by the DROS Supplemental Subaccount. (Pen. Code, § 28235.)
- 21) Creates the DROS Supplemental Subaccount within the DROS Special Account of the General Fund to offset costs incurred by the DOJ that are related to the regulatory and enforcement activities on the sale, purchase, manufacture, possession, loan or transfer of firearms, and authorizes the DOJ to charge firearms purchasers a fee in the amount of \$31.19 for deposit into the DROS Supplemental Subaccount. (Pen. Code, § 28233.)
- 22) 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, subs. (a) & (b).)
- 23) 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, subd. (c).)
- 24) Requires the DOJ to recover costs related to the enforcement activities by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process and not to exceed the DOJ's reasonable costs. (Pen. Code, § 30370, subd. (c).)

FEDERAL LAW: States that, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” (U.S. Const., 2nd Amend.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** 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.”
- 2) **Second Amendment Jurisprudence and CCW Laws:** In many states throughout the U.S., people are generally prohibited from carrying a concealed firearm in public unless they have a CCW license. States vary in what requirements need to be met in order to obtain a CCW license. In *N.Y. State Rifle & Pistol Ass’n v. Bruen* (hereafter *Bruen*), *supra*, 142 S.Ct. 2111, the United States Supreme Court found a New York state requirement that CCW applicants demonstrate a specific safety reason (i.e. “good cause”) as to why they need to carry a concealed firearm to be unconstitutional. In finding the requirement unconstitutional, the Court held that the Second Amendment protects, “an individual’s right to carry a handgun for self-defense outside the home.” (*Id.* at 2122.) The Court stated that there was, “no other constitutional right that an individual may exercise only after demonstrating to government officers some special need.” (*Id.* at 2156.) It then established a new test for determining whether a government restriction on carrying a firearm violates the Second Amendment as follows:

“...[W]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must

demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’ ”

(*Id.* at 2126.)

Although it invalidated the New York statute, and by its reasoning had the same effect on California’s similar CCW statute, the Court made clear that regulations consistent with historical precedent, such as those that prohibit weapons in “sensitive places,” would likely pass constitutional muster. (*Bruen, supra*, 142 S.Ct. at 2124, 2133-34.) However, the Court gave little guidance on what constitutes a sensitive place, beyond stating that “expanding the category of ‘sensitive places’ to all places of public congregation that are not isolated from law enforcement defines the category of ‘sensitive places’ far too broadly.” (*Id.* at 2133-34.)

Furthermore, the Court intimated that CCW regimes can still require applicants to undergo a background check or pass firearm safety courses, and that these requirements are suitable to ensure only “law-abiding, responsible citizens” are granted CCWs. (*Id.* at 2138, fn. 9.) The Court chose not to undertake an exhaustive historical analysis of what is constitutional and what is not when it comes to CCWs. (*Id.* at 1234.) As such, it acknowledged that applying constitutional principles to novel modern conditions is difficult, but nevertheless concluded that judges are equipped with the proper decision-making skills to answer such questions. (*Ibid.*)

In reaching its decision, the Court also recognized that California is among the limited number of states that have an analogue to New York’s “proper cause” standard in their concealed carry laws. (*Bruen, supra*, 142 S.Ct. at 2124.) Consequently, on June 24, 2022, the California Attorney General issued a “Legal Alert,” expressing his view that the Court’s decision renders California’s “good cause” standard to secure a permit to carry a concealed weapon in most public places unconstitutional and unenforceable. (Attorney General Rob Bonta. *Legal Alert*. (June 24, 2022) <<https://oag.ca.gov/system/files/media/legal-alert-oag-2022-02.pdf>> [as of Jun. 21, 2023].)

This bill seeks to update and restructure California’s CCW laws in light of the *Bruen* decision. Put briefly, it does so by listing conduct and behavior that would disqualify a person from being considered a “law-abiding, responsible citizen.” It also lists numerous locations that are considered sensitive, and where a CCW licensee may not carry their firearm.

As the Supreme Court did not undertake an exhaustive historical analysis, it is an open question what provisions of this bill are and are not constitutional. Already, there have been varied, and at times, curious court decisions made as a result of the *Bruen* case. For example, the Fifth Circuit Court of Appeals invalidated a federal statute prohibiting a defendant from possessing a firearm pursuant to a domestic violence court order, even after the defendant was involved in five shootings over the course of approximately one month. (*U.S. v. Rahimi* (2023) 61 F.4th 443.)

That said, New York and New Jersey have passed CCW laws substantially similar to the provisions of this bill. (Buffalo News. *New York amends concealed carry law after legal challenges from gun owners*. (Updated May 26, 2023)

<[<<https://www.northjersey.com/story/news/new-jersey/2023/05/23/nj-gun-law-state-appeals-decision-that-overturned-concealed-carry/70247615007/>> \[as of Jun. 21, 2023\].\) Both states' laws have been challenged in federal court and the ultimate constitutionality of the laws remains to be seen. \(*Ibid.*\) This bill faces a similar situation were it to become law. In this respect, it should be noted that this bill contains a severability clause.](https://buffalonews.com/news/local/new-york-amends-concealed-carry-law-legal-challenges-buffalo-mass-shooting/article_6ed42e82-ef32-11ed-90b8-33e52d67d2a3.html#:~:text=New%20York%20amends%20concealed%20carry%20law%20after%20legal%20challenges%20from%20gun%20owners,-Jay%20Tokasz&text=Among%20the%20key%20elements%20of,buildings%20and%20houses%20of%20worship.> [as of Jun. 21, 2023]; NorthJersey.com. <i>New Jersey appeals decision that upended restrictions on concealed carry</i>. (Updated May 23, 2023)</p></div><div data-bbox=)

- 3) **DROS Fee History and Its Relation to Ammunition and Precursor Parts:** The DROS fee was first established in 1982 in order to cover DOJ's cost of performing a background check on firearms purchasers. (*Gentry v. Becerra*, (hereafter *Becerra*) (Mar. 4, 2019, No. 34-2013-80001667 at pg. 2.) Sacramento Sup. Ct., <<https://michellawyers.com/wp-content/uploads/2019/09/2019-03-04-Ruling-on-Hearing-on-Petition-for-Writ-of-Mandate-Complaint.pdf>> [as of Jun. 21, 2023]; affirmed by *Gentry v. Rodriguez* (2021) Cal. App. Unpub. LEXIS 2004, 2021 WL 1152731.)

The DROS fee is one of several fees that is attached to the purchase of a new firearm. In addition, there is a \$1 firearm safety fee, and a \$5 firearms safety and enforcement fee. (*Department of Justice Fees*. DOJ. (2020)

<<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/pdf/firearms-fees.pdf>> [as of Jun. 20, 2022].)

Although the initial DROS fee was only intended to cover the cost of background checks, subsequent legislation contemplated that DROS funds be used for other purposes, such as enforcement of the Armed Prohibited Persons System (APPS). *Becerra, supra*, No. 34-2013-80001667 at 3.)

SB 1235 (De Leon), Chapter 55, Statutes of 2016 repealed and reconstructed many provisions of the Penal Code related to ammunition vendors, and established a new regulatory framework for the sale and purchase of ammunition in California. Among these changes was a requirement that DOJ impose a fee to recover its processing and enforcement costs related to ammunition purchase authorizations. (Pen. Code, § 30370.) Under the language of SB 1235, this per-transaction fee was to be set in accordance with the DROS fee, which at the time was set forth in Penal Code section 28225.

AB 879 (Gipson), Chapter 730, Statutes of 2019 established a new framework to regulate the manufacture, possession and sale of firearm precursor parts. Much of this framework was adapted from the language of SB 1235 (De Leon), including the cost recovery fee. Under AB 879 (Gipson), the DOJ's cost recovery fee for precursor part purchase authorizations was also tied to the DROS fee, which at the time was still set forth in Penal Code section 28225.

Then AB 1669 (Bonta), Chapter 736, Statutes of 2019, increased the DROS fee to \$31.19 and restructured it by moving it to a newly enacted code section. According to the DOJ website:

“AB 1669 adds a new section to the Penal Code, section 28233. Subdivision (b) of that section authorizes a new \$31.19 fee for regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms pursuant to any provision listed in section 16580. Because the new fee in section 28233 funds the activities specified previously specified by section 28225, and because this fee is the principal fee charged at the time of each DROS transaction, the Department is naming the fee authorized by section 28233 the ‘DROS Fee.’

(*Regulations: Dealer Record of Sale (DROS) Fee (Emergency)*).” DOJ.
<<https://oag.ca.gov/firearms/regs/drosfee>> [as of Jun. 20, 2022].)

However, the cross-references to Penal Code section 28225 were never updated to reflect the changes made by AB 1669 (Bonta). This bill would update the erroneous cross-references and clarify that the DROS fees remain unchanged.

- 4) **Argument in Support:** According to the bill’s co-sponsor, the *DOJ*, “...Under SB 2, California’s ‘good moral character’ standard will be updated to require that, prior to issuing a concealed carry license, the licensing authority must determine that the applicant is not a disqualified individual based on an assessment of defined and objective criteria. A licensing authority will be required to deny a license or renewal application if it determines that the applicant has committed certain acts, been convicted of certain crimes, or has been the subject of certain restraining orders, all of which indicate, in California’s view, that it is reasonably likely that the applicant has been or is reasonably likely to be a danger to themselves or others. This bill further strengthens current law by expanding gun-free zones, imposing more stringent training requirements, setting the minimum age at 21 years, and establishing a more uniform licensing standard. Lastly, SB 2 will clean up outdated provisions and cross- references to other statutory provisions relating to the Dealer Record of Sale (DROS) fee, the supplemental fee, and the authority of Department of Justice (DOJ) in the regulation of the sale of firearm precursor parts and authorization to issue a firearm precursor part vendor license.

“The Bruen decision has resulted in a substantial increase in applications for concealed carry weapon permits, which will ultimately result in more guns being carried in our communities. It is indisputable that more guns in public leads to an increased risk of violence. SB 2 strikes the appropriate balance between respecting Californians’ rights to keep and bear arms and the public’s equally weighty interests in having safe public spaces.

“California continues to have one of the lowest gun death rates in the nation because of this state’s commitment to commonsense gun safety laws like SB 2...”

- 5) **Argument in Opposition:** According to the *Gun Owners of California*, “...While it is true that the legislature has a compelling interest in protecting both individual rights and public safety, it’s important to note that the legislature cannot balance one set of rights by diminishing others. The factual record is very clear: lawful CCW holders are not killing,

injuring, or traumatizing individuals with acts of gun violence or terrorism. The existing CCW system operated by the California Department of Justice and other issuing authorities has everything needed for law enforcement to effectively do their job. The proof is that CCW holders in California are among the most law-abiding citizens in the state.

“Senator, as with your SB 918 of last year, you quoted the rulings of the Ninth Circuit Court of Appeals regarding historical elements of concealed carry laws over the past 700 years in England and America. You also defined Justice Antonin Scalia’s recognition of ‘sensitive places’ in *Heller v DC*, as descriptive and not as exclusive when he mentioned schools and government buildings. By your definition, the legislature can designate any public place as sensitive, however this is clearly not what Justice Scalia said. He was specific in his comments regarding schools and government buildings. Further, in *NYSRPA v Bruen*, Justice Clarence Thomas held that while his decision is not a straight-jacket preventing state governments from imposing rules and requirements, neither is it a blank check for those governments to legislate in excess. Every rule and regulation must be objective and must have a historical analog to the text, history and tradition of the Second Amendment at the founding. He specifically warned against expanding the definition of sensitive places to include vast areas used by the public at-large. The concurring opinion by Justice Brett Kavanaugh gave clear direction for the 6 states who have ‘may issue’ regimes for the issuance of CCWs. He stated: ‘Going forward, therefore, the 43 States that employ objective shall-issue licensing regimes for carrying handguns for self-defense may continue to do so. Likewise, the 6 States including New York potentially affected by today’s decision may continue to require licenses for carrying handguns for self-defense so long as those States employ objective licensing requirements like those used by the 43 shall issue States.’

“The provisions of SB 2 are the antithesis of the objective licensing requirements used by the 43 shall issue states. Justice Thomas also warned lower courts to refrain from approving ‘outlier’ regimes and regulations because they are unconstitutional. The Supreme Court made it clear that any CCW regime that is based on ‘subjective’ criteria is unconstitutional. SB 2 is playing a shell game by removing the statutory language that allows issuing authorities to use subjective ‘good cause’ requirements in the issuance or rejection of CCWs, shifting the subjective requirements to a ‘good moral character’ provision in the law that this bill describes as a ‘disqualified person’. Granting the authority to issuing agencies to base permit issuance on subjective evaluations of character references and social media posts is highly prejudicial. This is clearly an effort to use someone’s 1st Amendment right of free speech to infringe on their Second Amendment right. To reiterate what we stated last year, this doesn’t pass the chuckle test.

“Again, each of the studies quoted by the author can only show correlation but not causation. An example of this would be that if a statistical study would show that most of the people who filed for divorce also liked bacon, this would be an example of association or correlation. The types of studies cited in this finding would say that it is obvious that eating bacon causes divorce. Although this is a crude and simple example, it is in fact a reflection of the types of conclusions met by these particular studies.

“There are also significant problems with finding (h). As previously mentioned, the studies cited are irrelevant given that they were conducted years prior and over a dozen new states have become ‘right to carry’. Moreover, the bill unfairly classifies 18-year-old Californians as ‘half-citizens’ by denying them the right to protect themselves with a firearm from the

threat of great bodily injury or death; this creates an ethical and constitutional problem that is being brushed under the carpet. If they are old enough to vote and to serve in our nation's military, they are old enough to exercise each one of their Constitutional rights including the Second Amendment. A Federal District Court recently ruled in *Andrews v McCraw* that this is unconstitutional.

“The provisions requiring renewing CCW holders to submit a new set of fingerprints is retaliatory. It's no secret that the DOJ currently maintains a set on file and preventing spouses from having each other's firearms on both of permits is nothing but punitive. Last I checked, people cannot change their fingerprints, except, of course in the movies. The cost of a new set of fingerprints will be approximately \$100, thereby making it more expensive, negatively impacting lower-income applicants to whom \$100 is a significant barrier and an unrealistic financial burden.

“In closing, the severability clause in the legislation is a clear indication and understanding that many components (if not all) of this legislation will ultimately be found unconstitutional. In due course, SB 2 will be a costly and unnecessary blemish for California to bear. This can be avoided.”.”

- 6) **Related Legislation:** AB 1133 (Schiavo), would change the training course requirements for CCW applicants. AB 1133 is currently in the Senate Public Safety Committee.
- 7) **Prior Legislation:** SB 918 (Portantino), of the 2021-2022 Legislative Session, was substantially similar to this bill. SB 918 failed passed on the Assembly floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California Department of Justice (Sponsor)
Brady Campaign to Prevent Gun Violence
California Academy of Family Physicians
California Catholic Conference
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
Friends Committee on Legislation of California
Giffords
Giffords Law Center to Prevent Gun Violence
Greater Sacramento Urban League
League of Women Voters of California
Los Angeles County
Los Angeles Unified School District
March for Our Lives Action Fund

National Association of Pediatric Nurse Practitioners (NAPNAP)
Prosecutors Alliance California
Sutter Health
Westchester/playa Democratic Club
Women for American Values and Ethics Action Fund

Opposition

Arcadia Police Officers' Association
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California Reserve Peace Officers Association
California Rifle and Pistol Association, INC.
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
Novato Police Officers Association
Orange County Sheriff's Department
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
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

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