

Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 2 (Portantino) – As Amended June 29, 2023

Policy Committee: Public Safety

Vote: 6 - 2

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill removes the good cause requirement for obtaining a concealed carry weapons (CCW) license and creates new standards for issuing CCW licenses following the U.S. Supreme Court's decision in *New York State Rifle and Pistol Association v. Bruen*.

Specifically, among other provisions, this bill:

- 1) Eliminates the good cause requirement previously used for issuing CCW licenses.
- 2) Authorizes a CCW licensing authority to issue a new or renewed CCW license upon proof that the applicant is not a disqualified person, as defined, is at least 21 years of age, is the recorded owner of the firearm they are seeking to carrying under the CCW license, has completed a training course, as provided, and is a resident of, or employed in, the jurisdiction.
- 3) Specifies minimum criteria for training courses that must be completed by an applicant for a new or renewed CCW license.
- 4) Provides that a CCW license shall be revoked if the licensing authority determines or is notified by the DOJ that a licensee is prohibited by state or federal law from owning or purchasing a firearm, has breached any of the conditions or restrictions relating to CCW licenses, provided inaccurate or incomplete information on their application or has become a disqualified person.
- 5) Prohibits a licensee from engaging in certain activities while carrying a firearm with a CCW license, including consuming an alcoholic beverage or controlled substance, engaging in an unjustified display of a deadly weapon, and violating any federal, state, or local criminal law.
- 6) Disqualifies an applicant from obtaining a CCW license if they meet specified criteria, unless a court makes a contrary determination.
- 7) Requires a licensing authority to conduct an investigation that meets certain minimum standards to determine whether an applicant is disqualified from receiving or renewing a CCW license.

- 8) Creates procedures for the approval or denial of an application and requires a licensing authority to notify an applicant if the agency determines they are disqualified from obtaining a CCW license and tell them that they may request review of that decision by a court.
- 9) Prescribes court proceedings through which an applicant may challenge a licensing authority's determination that they are disqualified from obtaining a CCW license.
- 10) Prohibits a CCW licensee from carrying a firearm in, among other places, schools, courts, government buildings, correctional institutions, hospitals and other medical service facilities, airports, 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.
- 11) Adds certain firearm possession offenses to the list of misdemeanors that are punishable by a 10-year prohibition on firearm ownership or possession.

FISCAL EFFECT:

- 1) Costs (General Fund, Fingerprint Fees Account) to DOJ in the tens of millions of dollars annually. DOJ reports costs of \$9.8 million in fiscal year (FY) 2023-24, \$17.2 million in FY 2024-25, \$16.8 million in FY 2025-26, and \$13.9 million annually ongoing. These funds would support staffing for legal challenges to the new CCW standards, updating firearms database systems, promulgating regulations, performing background checks, processing fingerprint scans, and other workload created by this bill. DOJ reports it needs delayed implementation of July 1, 2027, to complete the required IT enhancements. Per DOJ, the monies in the Dealers' Record of Sale Account are insufficient to fund the duties required by this bill.
- 2) Costs (Trial Court Trust Fund, General Fund) of an unknown but significant amount to the courts to hear cases arising from this bill. If a licensing authority denies a person's CCW application because they are disqualified from obtaining a permit, this bill allows the applicant to seek court review of the licensing authority's decision. An hour of court time costs approximately \$1,000. If 500 people seek court review of denied CCW applications and each case takes an hour of court time, court costs would be approximately \$500,000. Actual costs will depend on the number of applications denied and the amount of court time needed to resolve each case. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. The 2023-24 budget includes \$105 million from the General Fund to backfill declining revenue to the Trial Court Trust Fund.
- 3) Potentially reimbursable costs (local funds, General Fund) of an unknown but significant amount to law enforcement agencies that issue CCW licenses, typically county sheriffs' offices and city police departments. To the extent this bill requires an issuing authority to undertake a more detailed investigation and review of a CCW application than required under existing law, issuing authorities will likely incur significant workload costs. Licensing authorities have seen a significant increase in the number of CCW applications submitted since the Supreme Court's decision in *Bruen*. Costs for processing CCW applications may taper off after this initial influx of applications recedes. General Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

COMMENTS:

1) **Purpose.** According to the author:

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) **Background.** In 2022 in *New York State Rifle and Pistol Association v. Bruen*, the U.S. Supreme Court held that a New York CCW statute requiring a showing of proper cause was an unconstitutional restriction on a person’s Second Amendment right to bear arms. A proper or good cause requirement means that an issuing authority could require an applicant for a CCW license to demonstrate a justification for wanting a license to carry a concealed firearm. In *Bruen*, the court found the New York statute was not sufficiently grounded in the historical understanding of the Second Amendment and therefore a lack of “proper cause” could not be used to deny an application for a CCW license. After the ruling in *Bruen*, Attorney General Rob Bonta issued a bulletin confirming that California’s good cause requirement for a CCW license was no longer constitutional.

In an effort to comply with the court’s decision in *Bruen*, this bill implements new requirements for CCW applications and how issuing agencies must investigate and issue CCW licenses. The bill includes a mechanism for court review when an applicant is denied a license because the issuing authority determined they were disqualified from obtaining a license. It is unclear how the new constitutional standard established by *Bruen* will be applied to new CCW schemes; regardless, DOJ will likely spend years litigating the system implemented by this bill.

3) **Support and Opposition.** DOJ, a co-sponsor of this bill along with Governor Gavin Newsom, writes in support:

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.

In opposition, the California Rifle and Pistol Association writes:

SB 2 seeks to dismantle the right of a law-abiding citizen to lawfully carry a concealed firearm with an approved permit in the state of California. This piece of legislation as amended contradicts the United States Supreme Court decision in *New York State Rifle & Pistol Association, Inc. v. Bruen* where the court stated that the state cannot literally define “sensitive places” to restrict the carrying of firearms too broadly. California’s law-abiding firearms owners who’s right to keep and bear arms under the Second Amendment to the United States Constitution, is being unconstitutionally restricted by making the vast majority of public places off limits to exercise that right.

- 4) **Prior Legislation.** SB 918 (Portantino), of the 2021-2022 Legislative Session, was similar to this bill. SB 918 failed passage on the Assembly floor.

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