
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 1525 **Hearing Date:** June 20, 2017
Author: Baker
Version: March 27, 2017
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Firearms Warnings*

HISTORY

Source: California Chapters of the Brady Campaign to Prevent Gun Violence

Prior Legislation: AB 35 (Shelley), Chapter 940, Statutes of 2001
SB 52 (Scott), Chapter 942, Statutes of 2001

Support: California Chapters of the Brady Campaign to Prevent Gun Violence; Law Center to Prevent Gun Violence; Women Against Gun Violence

Opposition: Firearms Policy Coalition; National Shooting Sports Foundation

Assembly Floor Vote: 59 - 15

PURPOSE

The purpose of this legislation is to update warnings on packaging, instructional manuals, pamphlets, and signs posted at retailers relating to the risks of firearms to reflect recent updates in California law related to firearms.

Existing law provides that the packaging of any firearm and any descriptive materials that accompany any firearm shall bear a label containing the following warning statement: Children are attracted to and can operate firearms that can cause severe injuries or death. Prevent child access by always keeping guns locked away and unloaded when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison. A yellow triangle containing an exclamation mark shall appear immediately before the word 'Warning' on the label." (Pen. Code, § 23640, subd. (a).)

Existing law states that if the firearm is sold or transferred without accompanying packaging, the warning label or notice shall be affixed to the firearm itself by a method to be prescribed by regulation of the Attorney General. (Pen. Code, § 23640, subd. (b).)

Existing law requires that the warning statements shall satisfy both of the following requirements: (Pen. Code, § 23640, subd. (c).)

- It shall be displayed in its entirety on the principal display panel of the firearm's package, and on any descriptive materials that accompany the firearm; and

- It shall be displayed in both English and Spanish, in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or descriptive materials, in a manner consistent with federal regulations.

Existing law provides that firearms retailers must post conspicuously within the licensed premises the specified warnings in block letters not less than one inch in height. (Pen. Code, § 23835.)

Existing law provides that DOJ shall develop a firearm safety certificate instruction manual for in English and in Spanish. DOJ shall make the instructional manual available to firearms dealers who shall make it available to the general public. Essential portions of the manual may be included in the firearm safety pamphlet. (Pen. Code, § 31630, subd. (a).)

Existing law provides that DOJ shall develop audiovisual materials in English and in Spanish to be issued to instructors certified by the department. (Pen. Code, § 31630, subd. (b).)

Existing law states that DOJ shall solicit input from any reputable association or organization, including any law enforcement association that has as one of its objectives the promotion of firearms safety, in the development of the firearm safety certificate instructional materials. (Pen. Code, § 31630, subd. (c).)

Existing law provides that DOJ shall develop a written objective firearms safety test, in English and in Spanish, and prescribe its content, form, and manner, to be administered by an instructor certified by the department. (Pen. Code, § 31640, subd. (a).)

Existing law states that if the person taking the test is unable to read, the examination shall be administered orally. If the person taking the test is unable to read English or Spanish, the test may be applied orally by a translator. The test: (Pen. Code, § 31640, subd. (b).)

- Provides that the test shall cover, but not be limited to, all of the following: (Pen. Code, § 31640, subd. (c).)
 - The laws applicable to carrying and handling firearms, particularly handguns;
 - The responsibilities of ownership of firearms, particularly handguns;
 - Current law as it relates to the private sale and transfer of firearms;
 - Current law as it relates to the permissible use of lethal force;
 - What constitutes safe firearm storage;
 - Issues associated with bringing a firearm into the home; and
 - Prevention strategies to address issues associated with bringing firearms into the home.
- Specifies that the DOJ shall update test materials related to this article every five years. (Pen. Code, § 31640, subd. (d).)

This bill adds information to specified warnings related to the following firearms regulations:

- Requirements to handle firearms responsibly and to securely store firearms to prevent access by children or other prohibited persons;
- Warnings of fines or imprisonment for failure to comply with specified regulations;
- Information about the associated Attorney General's website; and
- Warnings that a child may not be able to distinguish a firearm from a toy.

This bill updates warnings relating to the risks of firearms and the laws regulating firearms for all of the following:

- The packaging of firearms;
- Descriptive materials that accompany firearms; and
- The instructional manual developed by the Department of Justice (DOJ).

This bill updates, as of January 1, 2019, the warnings included at the premises of licensed firearms dealers.

This bill requires, as of January 1, 2019, specified warnings be given to persons who take the firearms safety certificate examination and require the applicant to acknowledge receipt of the warning prior to the issuance of the firearm safety certificate.

This bill requires, as of January 1, 2019, that the DOJ update the testing materials for the handgun safety certificate once every five years and requires the DOJ to update the related website regularly to reflect current laws and regulations.

COMMENTS

1. Need for This Bill

According to the author:

Last year California adopted several new laws related to firearms, and voters approved a ballot initiative further broadening the scope of firearm regulations. It is vital that law enforcement has the necessary tools to enforce these new laws, and equally important that consumer's education have fair warning and information about their responsibilities under the law.

California firearm laws are complex and have different effectiveness dates, scopes, and penalties. The State should do its part to assist firearm purchasers with understanding these laws, so the purchaser is better able to comply and the laws can be more effective.

2. Background

According to the background provided by the author:

Consumer education at the point of sale and when taking the Firearms Safety Certificate (FSC) test helps ensure firearms are properly stored and the owners better understand the laws they are expected to follow. Firearm laws are complex and many purchasers and firearm range and store owners are uncertain on how to comply. Current law already requires notices and disclosures to be posted at the point of sale and information be provided to a firearm purchaser when they obtain an FSC. Given the number of new laws firearm owners are expected to follow, it is important not only to update these postings to better reflect existing law, but also to provide the purchaser with information as to where they learn more detailed information about new laws and how to comply.

3. Handgun Safety Certificate

Beginning in 1993, possession of a handgun safety certificate was required to transfer firearms. The Department of Justice was required to create the requisite process to obtain a handgun safety certificate. Exemptions were provided for specified classes of persons who did not need to either successfully take the course or challenge the course with a specified exam.

Senate Bill 52 (Scott), Chapter 942, Statutes of 2001, repealed the basic firearms safety certificate scheme and replaced it with the more stringent handgun safety certificate scheme. SB 52 provided that, effective January 1, 2003, no person may purchase, transfer, receive, or sell a handgun without a Handgun Safety Certificate (HSC).

4. Argument in Support

According to the California Chapters of the Brady Campaign to Prevent Gun Violence:

The California Chapters of the Brady Campaign to Prevent Gun Violence is a grassroots organization working to reduce firearm crime, injury, and death. There are 28 Brady Chapters throughout the state, many of whose members have lost a loved one to gunfire. In furtherance of our goal to reduce firearm violence in our communities, the California Brady Campaign supports AB 1525, introduced by Assemblywoman Catharine Baker.

Existing law requires certain warnings on the packaging of any firearm and descriptive materials that accompany a firearm sold or transferred in California by a licensed manufacturer or licensed dealer. Existing law also requires specified warnings to be posted by a gun dealer. AB 1525 will update the warning, including with language that will direct firearm purchasers and other customers to the California Department of Justice Bureau of Firearms website to obtain more information on California's current firearm laws, regulations and penalties. This same new language will also be included in the instruction manual developed by the Department and must be provided to an applicant for a firearm safety certificate, who must acknowledge receipt. Additionally, the applicant must acknowledge receipt of warning information indicating that it is generally a crime to sell or give a firearm to someone without conducting the transfer through a licensed firearm dealer.

California has passed many firearm regulations since 1989, with a large number of new policies enacted in the years since the shooting at Sandy Hook School in 2012.

These laws have different effective dates, scopes and penalties and may be confusing to both new firearm owners and those who have possessed guns for a long time. Although it is the responsibility of gun owners to know the laws pertaining to firearms, it makes sense to facilitate this with a clear warning and a link for finding more information. The provisions in AB 1525 will assist firearm purchasers with better understanding of our state's law and the proper and safe handling of firearms, so that the purchaser is better able to comply and the laws can be more effective.

California has the strongest gun laws in the nation and they are making a difference. From 1993 - 2015, California's firearm mortality rate declined by 57 percent — more than twice the decrease in the rest of the nation. Our state has done the best job in the country of enacting laws that make it harder for criminals and other dangerous people to acquire dangerous firearms. These laws have helped reduce both gun homicides and gun suicides, and have enabled law enforcement to combat illegal firearms trafficking and seize illegally owned guns. We believe that increased knowledge and compliance will help our state realize even more benefit from our strong gun laws and more lives will be saved.

5. Argument in Opposition

According to the Firearms Policy Coalition:

On behalf of the members and supporters of Firearms Policy Coalition, I would like to express our opposition to Assembly Bill 1525 (Baker) aka “The Brady/Baker Act”, a measure that requires mandates on manufacturers retailers, consumers and regulators, but does not provide any benefit or value to any of them or to the public. It is our understanding that this measure is sponsored by the organization now calling itself the Brady Campaign (formerly Handgun Control, Inc.) and did not originate from any identifiable need or from persons or entities that are involved in the shooting sports or firearms safety training.

AB 1525, as introduced, would have used the Federal Firearms Licensees (FFL's) as a mouthpiece for those who would rather see them shut down. While we are pleased that such unconstitutional compulsory speech has been tempered with recent amendments, it still has numerous infirmities that are unlikely to be resolved short of withdrawing the measure from consideration.

This measure and those like it are probably best described in the immortal words of both the Five Man Electrical Band and later Tesla, *'Signs signs everywhere there's signs Blocking out the scenery Breaking my mind Do this, don't do that Can't you read the sign'*

Perhaps the lyrics should be updated for the new millennium: “Signs signs, every year new signs...

The Brady/Baker Act places a strange mandate on manufacturing in the amended section 23640, by changing their California only “descriptive materials” on their lawfully distributed and Constitutionally protected products, with a warning that sends people to a web address to an agency which is hostile to gun owners, provides absolutely no technical support to the consumer and simply doesn't have the expertise to do so.

In addition, the new signage is yet one more expense borne by retail FFL's, with risk of losing their license—and livelihood, for non-compliance, who just recently had to re-sign their shops due to other bills and would be required to do it all over again. This section has been amended a few times recently, including the passage of Proposition 63 just a few short months ago. This measure also has a chaptering

conflict with this year's Senate Bill 497 (Portantino) which seeks among other things to change the verbiage on the signs—again!

The consumer is then saddled with some sort of “gotcha” tactic, requiring them to affirm that they have received this new enlightenment from the Brady/Baker team, creating a paper trail of the cognitive dissonance related to buying a firearm for their minor child who competes or hunts while being forced by law to acknowledge that they should prevent access to the same.

This bizarre requirement also means that the California Department of Justice (CADOJ) will have to update its forms, materials and the related regulations--- something CADOJ is terrible at. This leads us to the mandates on CADOJ. AB 1525 envisions updating their website with relevant information “regularly”. This is the same department who hasn't updated their “assault weapon” guide in 16 years.

In fact, the CADOJ has had the last 9 months to promulgate regulations on the deluge of anti-gun owners measure passed last July—and they have not. Worse, we are already through the first quarter of the one year that gun owners are statutorily required to re-register their firearms under California's now 4th “assault weapon” ban. Much like Prop' 65 signs, these store signs are prolific eyesores, a visual cue of the disdain the legislature has for its law-abiding gun owners.

This non-stop drumbeat of anti-gun-owner and anti- business regulations has done precious little to improve our state, but it has cost the Legislature respect and likely the very validation and compliance it seeks. This measure is simply a problem is search of more problems.

We ask that you reject the Brady/Baker Act (AB 1525). We also ask that the author withdraw this measure from consideration. And we ask that if legislators want to learn about gun safety, they seek out those who practice the art, not those who would seek gun control as an agenda.

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