
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1100 **Hearing Date:** April 17, 2018
Author: Portantino
Version: March 19, 2018
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Firearms: Transfers*

HISTORY

Source: Author

Prior Legislation: AB 1674 (Santiago), 2015, vetoed
AB 202 (Knox), Ch. 128, Stats. of 1999

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

Opposition: Firearms Policy Coalition

PURPOSE

The purpose of this bill is to extend the prohibition on purchasing more than one handgun a month to include all firearms and increases the age from 18 to 21 years for a person to purchase a firearm from a licensed dealer.

Existing law prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

This bill extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

Existing law exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

- Any law enforcement agency.
- Any agency duly authorized to perform law enforcement duties.
- Any state or local correctional facility.

- Any private security company licensed to do business in California.
- Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.
- Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.
- Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).
- Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.
- The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
- The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.
- The return of any handgun to its owner.
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill adds the following exceptions to the one gun a month prohibition:

- The purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.
- The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

Existing law prohibits the sale or transfer of a handgun, except as specifically exempted, to any person below the age of 21 years. (Pen. Code § 27510.)

Existing law also prohibits the sale or transfer of a firearm, other than a handgun, except as specifically exempted, to any person below the age of 18 years. (Pen. Code § 27510.)

This bill prohibits the sale or transfer by a licensed dealer of a long gun to a person below the age of 21 years, increasing the age from 18 years to 21 years of age. The bill exempts long gun purchases or transfers when the purchaser or transferee has a valid, unexpired hunting permit.

COMMENTS

1. Need for This Bill

According to the author:

While handguns are used in the majority of gun deaths, long guns have been used to perpetrate many of the largest mass shootings in U.S. history, including the tragic event that took place in San Bernardino, California.

California is home to the most stringent gun laws in the country. One example is requiring an individual to be 21 years of age in order to purchase a handgun. Another is the general limitation on a gun dealer delivery of only one handgun to an individual in a 30 day period.

Since these laws have taken effect, data shows that there has been a successful reduction in the incidence of gun trafficking while not burdening legitimate gun owners or persons who wish to acquire guns.

In order to be uniformly consistent, California should apply the 30 day delivery period and 21 year age limit to long guns.

Firearms will not be delivered whenever the dealer is notified by the DOJ that within the preceding 30-day period the purchaser has made another application to purchase a firearm. In addition, because of the interaction of state and federal law, receivers or frames (the gun minus the barrel) are also applicable to the 30-day purchase period. This bill will also define a frame or a receiver of a firearm.

Lastly, this bill would also prohibit the sale or transfer of any firearm by a licensed dealer, except as specially exempted, to any person below the age of 21 years.

2. One Gun a Month

According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

The State of Virginia enacted a “one-handgun-a-month” law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.

Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:

- 71% for guns recovered in New York;
- 72% for guns recovered in Massachusetts; and
- 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.

(<http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/>
[footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.
- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period. . .
- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon. . .
- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for

each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(<http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/>[footnotes omitted].)

Senate Bill 1674 (Santiago), of 2015: Veto Message

The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.

While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.

Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

3. Increasing the Age for Purchase of Long Guns

This bill would increase the minimum age from 18 to 21 years for a person to purchase all firearms in California. The age restriction would also impact the ability to transfer a weapon. Under current law a person must be 21 years of age to purchase a handgun, and this bill applies those same rules to the purchase and transfer of all firearms (including long guns). The bill creates an exception to this rule when the purchaser or transferee has a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

On February 14, 2018 Nikolas Cruz shot and killed seventeen people and wounded an additional seventeen people at Marjory Stoneman Douglas High School in Parkland, Florida. The perpetrator was 19-years old at the time of the incident, and he used assault rifles. Following the incident Florida passed legislation to increase the minimum age for buying rifles to 21-years. The National Rifle Association challenged the law and filed a lawsuit in the United States District court for the Northern District of Florida alleging that the ban on gun sales to people under 21 years of age is unconstitutional because it violates their rights under the Second and Fourteenth Amendments to the U.S. Constitution because 18-year-olds are classified as adults.

On March 1, 2018 George Skelton wrote an editorial for the LA Times¹ on this bill. He stated the following regarding this provision:

In Sacramento, state Sen. Anthony Portantino (D-La Cañada Flintridge) proposes taking an even bigger step. He introduced legislation Wednesday to increase the legal age to 21 in California for buying any gun, including a shotgun or rifle with low ammo capacity. A shooter with a hunting license would be exempt because he'd taken a gun safety course.

¹ <http://www.latimes.com/politics/la-pol-ca-skelton-guns-schools-teachers-20180301-story.html>

What about a skeet shooter? Or someone who just likes to plink tin cans out by the barn?

Doesn't make sense that an 18-year-old can enlist in the Army and be armed with an automatic M-16 to fight terrorists, but can't buy a bolt-action plinker back home until he's 21.

In Florida, where the gun lobby usually prevails in the Legislature, a House committee bucked the NRA on Tuesday and approved a bill to raise the rifle-buying age from 18 to 21. This came after emotional testimony from parents of students killed in the school shooting.

The committee also voted to allow arming of teachers. But it rejected a ban on assault weapons.

Everyone needs to get their priorities straight: Let the teachers teach. Treat 18-year-olds like adults. Get rid of all assault weapons.

However, there are a number of instances when lawmakers have limited the ability of person's under the age of 21 to engage in activities which are otherwise lawful. Notably, persons under the age of 21 are not allowed to ingest alcohol or marijuana under California law.

4. California Hunting Licenses

This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid, unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements
- Choose the correct type of hunting license.
- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs \$28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

5. Argument in Support

According to the California Chapters of the Brady Campaign:

The California Brady Campaign generally believes that handguns and long guns (rifles, shotguns and lower receivers) should be subject to the same laws. Modern sporting rifles are often high powered semi-automatic weapons with exchangeable magazines that can pose a greater threat than handguns. In the early 1990s, it was thought that handguns made up an overwhelming share of crime guns, but the data shows that is no longer the case. Of the 26,682 crime guns entered into the

Department of Justice Firearms Systems database in 2009, 11,500 were long guns.ⁱ

Existing law prohibits the sale or transfer of a handgun to a person below the age of 21 years. SB 1100 will similarly prohibit, with exceptions, the sale or transfer of a long gun by a licensed firearm dealer to a person under age 21. Additionally, the bill will require those who manufacture or assemble a long gun to be at least 21 years old in order to obtain a serial number for the firearm and register it with the California Department of Justice. These provisions makes sense as those under age 21 are disproportionately linked to crime. In 2015, 23.4 percent of those arrested for murder and non-negligent manslaughter in the U.S. were under 21ⁱⁱ and 26.5 percent of those arrested for “weapons carrying, possession, etc.” were under age 21.ⁱⁱⁱ Individuals age 18 to 20 comprise only 4% of the population but commit 17% of gun homicides.^{iv}

Maturity, impulsive or reckless behavior, and responsibility vary greatly among 18-20 year olds. This is recognized in other areas – those under age 21 cannot buy alcohol, rent a car, or purchase a handgun – and the same age restriction should apply to long guns.

Additionally, SB 1100 will limit purchases of long guns from licensed firearms dealers in California to no more than one gun per person per 30-day period, with appropriate exemptions. This is current law for handguns and is a recognized strategy for curbing the illegal flow of guns by taking the profit out of selling guns from bulk purchases on the black market. It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, many of these bulk purchases are for lower receivers, which can be built up into military-style weapons and sold for a big profit. Firearms acquired in bulk are frequently used in crime. A University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.^v Limiting multiple-gun sales within a short period of time for all firearm, including long guns, is clearly in the interest of public safety.

-- END --

ⁱ Data provided by the California Department of Justice, April 6, 2010.

ⁱⁱ FBI 2015 Crime in the United States, <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-41>.

ⁱⁱⁱ Ibid.

^{iv} “Uniform Crime Reporting Program Data: Supplementary Homicide Reports, 2015,” US Department of Justice, Federal Bureau of Investigation, <https://ucr.fbi.gov/nibrs/addendumfor-submitting-cargo-theft-data/shr>.

^v Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). <https://www.ncjrs.gov/pdffiles1/nij/grants/221074.pdf>.