
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 603 **Hearing Date:** June 4, 2019
Author: Melendez
Version: February 14, 2019
Urgency: No **Fiscal:** No
Consultant: GC

Subject: *Firearms: Retired Peace Officers*

HISTORY

Source: Federated University Police Officers Association

Prior Legislation: AB 1192 (Lackey), Ch. 63, Stats. of 2018

Support: California Statewide Law Enforcement Association; Statewide University Police Association

Opposition: None known

Assembly Floor Vote: 74 - 0

PURPOSE

This bill clarifies that a member of the University of California Police Department who has qualified for and accepted duty disability income or equivalent status under the University of California Retirement Plan is an "honorably retired peace officer" for the purpose of exemption from the ban on possession of large-capacity magazines, and the carrying of a loaded concealed firearm.

Existing law defines a "large-capacity magazine" as any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

- 1) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds;
- 2) A .22 caliber tube ammunition feeding device; or,
- 3) A tubular magazine that is contained in a lever-action firearm. (Pen. Code, § 16740.)

Existing law mandates that a person who, prior to July 1, 2017, legally possessed a large-capacity magazine shall dispose of that magazine by any of the following means:

- 1) Remove the large-capacity magazine from the state;
- 2) Sell the large-capacity magazine to a licensed firearms dealer;
- 3) Destroy the large-capacity magazine; or,
- 4) Surrender the large-capacity magazine to a law enforcement agency for destruction. (Pen. Code, § 32310, subd. (d).)

Existing law provides that, commencing July 1, 2017, any person that possesses a large-capacity magazine is guilty of an infraction punishable by a fine not to exceed \$100 per large-capacity magazine or is guilty of a misdemeanor punishable by a fine not to exceed \$100 per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment. (Pen. Code, § 32310 subd. (c).)

Existing law exempts the following individuals and entities from the large-capacity magazine ban:

- 1) An individual who honorably retired from being a sworn peace officer, or an individual who honorably retired from being a sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties;
- 2) A federal, state, or local historical society, museum or institutional society, or museum or institutional collection, that is open to the public, provided that the large-capacity magazine is unloaded, properly housed within secured premises, and secured from unauthorized handling;
- 3) A person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition, and possessed it no longer than necessary to deliver or transport it to the nearest law enforcement agency;
- 4) A forensic laboratory, or an authorized agent or employee thereof in the course and scope of his or her authorized activities;
- 5) The receipt or disposition of a large-capacity magazine by a trustee of a trust, or an executor or administrator of an estate, including an estate that is subject to probate, that includes a large-capacity magazine; or,
- 6) A person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds 10 or fewer rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm. (Pen. Code, § 32406.)

Existing law defines "honorably retired" includes any peace officer who has qualified for, and has accepted, a service or disability retirement. As used in those provisions, "honorably retired" does not include an officer who has agreed to a service retirement in lieu of termination. (Pen. Code, § 11690.)

This bill clarifies that a member of the University of California Police Department who has qualified for and accepted duty disability income or equivalent status under the University of California Retirement Plan is an "honorably retired peace officer" for the purpose of exemption from the ban on possession of large-capacity magazines, and the carrying of a loaded concealed firearm.

COMMENTS

1. Need for This Bill

According to the author:

While California State University officers can be considered "honorably retired" when receiving disability retirement pay, several retired University of California peace officers have been denied this title and therefore have been treated differently due to a small difference in terminology.

Under state law, a peace officer can be classified as “honorably retired” if they accept a service or disability retirement, or if they are a retired level I reserve officer - so long as they do not agree to take service retirement in lieu of termination (PEN 16690).

If a peace officer is active or “honorably retired,” they are permitted to carry a concealed weapon and can receive an identification card to prove they are “honorably retired” (PEN 25450).

In 2013, University of California schools stopped issuing conceal carry weapon permits and identification cards to peace officers who retired because of disability because they no longer considered “Duty Disability Income” as a type of disability retirement pay and declared these CCW endorsements and Retired Officer identification cards as erroneously issued for over 15 years. [see: Allison Jacobs Et. Al. vs. The Regents of the University of California (2017) Case 09/13/2017].

Dennis Mueller, who joined the University of California Santa Barbara Police Department in 1980 and was injured on duty in 1997, was considered “honorably retired” until 2013 when he was informed by the University that he would not be receiving his Retired Officer Identification Card any more, eliminating his chances for renewing for his conceal carry permit.

Ally Jacobs, the University of California Berkeley police officer who helped rescue kidnapping victim Jaycee Dugard, suffered an on-duty injury in 2010 and accepted “Duty Disability Income.” She has continually been denied an “honorably retired” identification card and concealed carry permit.

2. Proposition 63 Banned Possession of Large-Capacity Magazines

On November 8, 2016, California voters approved Proposition 63 by more than a 63% majority. The proposition was titled "Background Checks for Ammunition Purchases and Large-Capacity Ammunition Magazine Ban Initiative."

Proposition 63 required individuals who wish to purchase ammunition to first obtain a permit. The measure mandated dealers to check this permit before selling ammunition. The measure also eliminated several exemptions to the large-capacity magazines ban and increased the penalty for possessing them. Proposition 63 enacted a court process that attempts to ensure prohibited individuals do not continue to have firearms. Proposition 47 of 2014 made stealing an item that is valued at less than \$950 a misdemeanor. Therefore, stealing a gun valued at less than \$950 is a misdemeanor. Proposition 63 made stealing a gun, including one valued at less than \$950, a felony punishable by up to three years in prison.

California banned large-capacity magazines for most individuals in 2000. Individuals who had large-capacity magazines before 2000 were allowed to keep the magazines. Proposition 63 removed the ownership exemption for pre-2000 owners of large-capacity magazines. The measure provided for charging individuals who do not comply with it with an infraction.

Specifically, Proposition 63 stated that all persons who lawfully possessed a high capacity magazine prior to January 1, 2017 had to dispose of the magazine by one of four specified options. However, the proposition exempted "honorably retired sworn peace officers" from the mandate to dispose of high capacity magazines. The definition of "honorably retired" was taken from Pen. Code, § 11690 which requires that an honorably retired peace officer take a pension. However, honorably retired reserve peace officers are not generally offered a pension.

3. This Bill Would Permit University of California Police Department who Has Qualified for and Accepted Duty Disability Income as an “Honorably Retired Peace Officer” to Possess Large Capacity Magazines

AB 1192 (Lackey), Ch. 63, Stats. of 2018 exempted retired Level I reserve peace officers who meet the specified length of service requirements from the ban on possessing high-capacity magazines. This bill would further expand the exemptions to include members of the University of California Police Department who has qualified for and accepted duty disability income or equivalent status under the University of California Retirement Plan as an “honorably retired peace officer.”

4. Argument in Support

According to the Federated University Police Officers Association:

In 2013, the University of California stopped issuing Honorably Retired peace officer identification cards and carry concealed weapon (CCW) endorsements to those University of California peace officers injured in the line-of-duty and medically separated from service.

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