
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 914 **Hearing Date:** May 20, 2020
Author: Portantino
Version: May 11, 2020
Urgency: No **Fiscal:** Yes
Consultant: NS

Subject: *Firearms*

HISTORY

Source: Author

Prior Legislation: SB 61 (Portantino), Ch. 737/2019

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to: 1) implement a procedure to confirm that a hunting license is valid when a person under the age of 21-years is using the license to purchase a firearm; 2) remove outdated code section pertaining to fees associated with firearm purchaser information and include cross references.

Existing law prohibits the sale of firearms to any person who is under the age of 21-years. (Pen. Code, § 27510, subd. (a).)

Existing law exempts persons aged 18-20 years from the prohibition on sale of firearms to persons under the age of 21-years when the person is purchasing a semiautomatic centerfire rifle if they possess a valid, unexpired hunting license issued by the Department of Fish and Wildlife. (Pen. Code, § 27510, subd. (b).)

Existing law requires that persons who purchase a firearm in California must wait 10-days from the date of the purchase to undergo a background check and for the Department of Justice (DOJ) to process the purchase of the firearm. (Pen. Code, §§ 26815 & 27540.)

This bill defines a valid and unexpired hunting license as a hunting license issued by the Department of Wildlife for which the time period authorized for the taking of birds or mammals has commenced but not expired.

This bill requires DOJ, for sales of firearms to persons under 21-years of age who are eligible to purchase a firearm based on their possession of a hunting license, confirm the validity of the hunting license as a part of the background check.

Existing law allows DOJ to charge a fee sufficient to reimburse it for costs associated with the sale and transfer of firearms such as the preparation, sale, processing, and filing of forms or reports required for the submission of a Dealers' Record of Sale (DROS). (Pen. Code, § 28230 (a).)

Existing law requires firearm purchaser information to be transmitted to the DOJ exclusively through electronic means. (Pen. Code, § 28205.)

Existing law permits DOJ to electronically approve the purchase or transfer of ammunition through a vendor at the time of purchase or transfer and prior to the purchaser taking possession of the ammunition, and permits the department to collect certain fees for these purposes. (Pen. Code, § 30370.)

Existing law directs the DOJ, starting July 1, 2025, to electronically approve the purchase or transfer of firearm precursor parts through a vendor at the time of purchase or transfer and before the purchaser taking possession of the firearm precursor part, and permits the department to collect certain fees for these purposes. (Pen. Code, § 30370.)

This bill removes an code section on DOJ's ability to impose fees for firearm purchaser information in Penal Codes sections 28230, 30370, and 30470, and also removes the relevant cross-references.

COMMENTS

1. Purpose of This Bill

According to the author:

Under current law when transferring or purchasing a firearm with a hunting license there is no verification during the 10 day background check to ensure the validity of the license. The bill would require the DOJ and the DFW to confirm a hunting license is valid when anyone under 21 years of age is using the license to purchase a firearm.

2. Defines a Valid Hunting License

This bill seeks to define a valid hunting license as being valid only during the period in which the hunter may lawfully hunt the bird or mammal for which the license has been granted. Hunting licenses may be used for persons aged 18-20 years to purchase semiautomatic centerfire rifle despite the ban on the purchase of these firearms by persons under the age of 21-years.

3. Requires the Department of Justice Verify the Validity of a Hunting License During the 10-Day Waiting Period

Under existing law, persons who purchase firearms in California must wait 10-days to undergo a background check and to allow the DOJ to process the purchase of the firearm. This bill would impose an additional requirement that the DOJ validate that the hunting license of a person aged 18-20 to purchase a semiautomatic centerfire rifle is valid, as defined by the bill. Only upon

verification of validity would the exemption apply to allow the 18-20 year-old to purchase the specified rifle.

4. Removal of Obsolete Code Sections Related to Fees

This bill includes amendments to Penal Code Section 28230, originally proposed in AB 1009 (Gabriel, 2019). The purpose of amendment 3 in Section 8 is to update and modernize the sections of the Penal Code that relate to the Dealer Record of Sale (DROS) fee. The DROS fee is a fee DOJ is able to charge each time a person attempts to purchase a firearm. The original DROS fee was found in Penal Code Section 28225, and specifically stated 11 different items the fee was intended to cover. AB 1669 (Bonta, 2019) split the original DROS fee statute up into two separate code sections. This resulted in the single outdated fee found in Penal Code Section 28225, to become two separate fees found in 28225 and the newly created Penal Code 28233. As a result of this split, the language in 28230 stating “if the department charges a fee...it shall be charged in the same amount to all categories of transaction that are within that paragraph” is outdated and obsolete. It is no longer possible for the same fee under section 28225 to be charged across all categories. This is because the fee as it reads, and was understood at the time section 28230 was last amended, no longer exists.

In Amendment 5, the new Section 10, includes amendments to Penal Code Section 30370. This Penal Code section, along with section 30356, was created as a part of Proposition 63 (2016) and SB 1235 (De Leon, 2016). Penal Code section 30356 allows the department to recover the reasonable cost of regulatory and enforcement activities related to this article by charging ammunition purchasers and transferees a per transaction fee not to exceed one dollar (\$1). Section 30370 allows the department to charge a separate fee, applicable to purchasers who do not otherwise qualify for section 30356, a one dollar "quick check." Penal Code section 30370 originally included a cross reference to section 28225, however due to section 28225 no longer existing, the purpose of the amendment is to reflect the changes in statute that have since been made.

There are also amendments to Penal Code Section 30470 proposed in this bill. This issue is almost exactly the same issue mentioned above, except that it applies to firearm precursor parts instead of ammunition. Penal Code section 30470 was created by AB 879 (Gipson, 2019). Section 30470(e) allows the department to recover the reasonable cost of regulatory and enforcement activities related to this article by charging firearm precursor parts purchasers and transferees a per transaction fee not to exceed one dollar (\$1). This section also includes the same outdated reference to Penal Code section 28225 as the aforementioned Penal Code sections. For those individuals who are not eligible for a one dollar quick check, section (e) establishes an alternative fee for would be purchasers of precursor parts. Similarly, because section 28225 as it existed at the time of AB 879's passage was also being amended but did not encompass all requisite cross references, the proposed amendments to 30470(e) reflect the changes in statute that have been made.

In conclusion, due to AB 1669 splitting penal code section 28225, Penal Code sections 28230, 30370, and 30470 all need to be updated to reflect the changes and reference relevant cross references.