

RESOLUTION 10-02-2018

DIGEST

Firearms Fees: School Safety Programs

Amends Penal Code section 28225 to impose increased fees on firearms purchases from dealers to defray the costs of school safety programs.

STATEMENT OF REASONS

The Problem: The mass proliferation of firearms in our country, and apparent inability of the federal government to prevent their acquisition by those intent on harm, has resulted in a surge of school shootings, and the deaths of scores of children, teachers, and others. Already underfunded public schools are forced to incur costs training teachers, and enacting safety programs for students in an effort to prevent further deaths, while profitable firearms vendors sell hundreds of thousands of cheap firearms to the public. The AR-15 assault rifle, for example, most recently used to massacre children in Florida, can be purchased for as little as \$700 today. Handguns, of course, cost significantly less.

The Solution: Firearms dealers should be asked to help defray the substantial costs imposed on society by the sale of their product. This resolution would increase the laughably small \$14 fee currently imposed on dealers to a more robust \$150. In addition, the bill would add school safety programs to the list of programs on which funds generated by this fee can be spent.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Penal Code section 28225, to read as follows:

1 § 28225

2 (a) The Department of Justice may require the dealer to charge each firearm purchaser a
3 fee not to exceed ~~one hundred and fifty-fourteen~~ (~~\$14~~150) dollars except that the fee may be
4 increased at a rate not to exceed any increase in the California Consumer Price Index as
5 compiled and reported by the Department of Industrial Relations.

6 (b) The fee under subdivision (a) shall be ~~no more than is necessary~~ used to fund the
7 following:

8 (1) The department for the cost of furnishing this information.

9 (2) The department for the cost of meeting its obligations under paragraph (2) of
10 subdivision (b) of Section 8100 of the Welfare and Institutions Code.

11 (3) Local mental health facilities for state-mandated local costs resulting from the
12 reporting requirements imposed by Section 8103 of the Welfare and Institutions Code .

13 (4) The State Department of State Hospitals for the costs resulting from the requirements
14 imposed by Section 8104 of the Welfare and Institutions Code.

15 (5) Local mental hospitals, sanitariums, and institutions for state-mandated local costs
16 resulting from the reporting requirements imposed by Section 8105 of the Welfare and
17 Institutions Code.

18 (6) Local law enforcement agencies for state-mandated local costs resulting from the
19 notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

20 (7) Local law enforcement agencies for state-mandated local costs resulting from the
21 notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and
22 Institutions Code.

23 (8) For the actual costs associated with the electronic or telephonic transfer of
24 information pursuant to Section 28215.

25 (9) The Department of Food and Agriculture for the costs resulting from the notification
26 provisions set forth in Section 5343.5 of the Food and Agricultural Code.

27 (10) The department for the costs associated with subdivisions (d) and (e) of Section
28 27560.

29 (11) The department for the costs associated with funding Department of Justice
30 firearms-related regulatory and enforcement activities related to the sale, purchase, possession,
31 loan, or transfer of firearms pursuant to any provision listed in Section 16580.

32 (12) The Department of Education, for costs associated with the creation, management,
33 and maintenance of school safety programs, or for costs associated with school facilities
34 upgrades that promote the safety of students.

35 (c) The fee established pursuant to this section shall not exceed the sum of the actual
36 processing costs of the department, the estimated reasonable costs of the local mental health
37 facilities for complying with the reporting requirements imposed by paragraph (3) of subdivision
38 (b), the costs of the State Department of State Hospitals for complying with the requirements
39 imposed by paragraph (4) of subdivision (b), the estimated reasonable costs of local mental
40 hospitals, sanitariums, and institutions for complying with the reporting requirements imposed
41 by paragraph (5) of subdivision (b), the estimated reasonable costs of local law enforcement
42 agencies for complying with the notification requirements set forth in subdivision (a) of Section
43 6385 of the Family Code , the estimated reasonable costs of local law enforcement agencies for
44 complying with the notification requirements set forth in subdivision (c) of Section 8105 of the
45 Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the estimated
46 reasonable costs of the Department of Food and Agriculture for the costs resulting from the
47 notification provisions set forth in Section 5343.5 of the Food and Agricultural Code , the
48 estimated reasonable costs of the department for the costs associated with subdivisions (d) and
49 (e) of Section 27560, the cost to the Department of Education, for the creation, management, and
50 maintenance of school safety programs, or for the costs of school facilities upgrades that promote
51 the safety of students, and the estimated reasonable costs of department firearms-related
52 regulatory and enforcement activities related to the sale, purchase, possession, loan, or transfer of
53 firearms pursuant to any provision listed in Section 16580.

54 (d) Where the electronic or telephonic transfer of applicant information is used, the
55 department shall establish a system to be used for the submission of the fees described in this
56 section to the department.

(Proposed new language underlined, language to be deleted stricken)

PROPONENT: Nick Stewart-Oaten, Lara Kislinger, Robin Bernstein-Lev, Dylan Ford, Casey Lilienfeld, Alissa Sterling, Kim Greene, Mike King, Eyvin Hernandez, Megan Gallow

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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RESPONSIBLE FLOOR DELEGATE: Nick Stewart-Oaten

COUNTERARGUMENTS AND STATE BAR SECTION COMMENTS

SAN DIEGO COUNTY BAR ASSOCIATION

The SDCBA Delegation urges disapproval of Resolution 10-02-2018. While this Resolution proposes an interesting means of funding school safety programs, the proposed “fee” will likely be determined to be a “tax.” Further, the \$150/fire arms transaction is too high.

The SDCBA Delegation is also concerned that such a high per-firearm transaction fee is likely to increase black market and individual to individual firearms transfers. This will adversely impact law enforcement tracking of firearms.