



County of Santa Cruz

BOARD OF SUPERVISORS

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WALTER J. SYMONS
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 8/15/00

August 8, 2000

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: SAFETY DEVICES ON FIREARMS

Dear Members of the Board:

Board members are well aware of the terrible toll the unintentional firing of firearms has taken and continues to take in this country. For example, between 1987 and 1996, nearly 2,200 children under the age of 15 died from unintentional shootings, a rate that is nine times higher than in 25 other industrialized countries combined. In addition, more than 1.2 million elementary school aged, latch-key children have access to guns in their homes.

The need for protection of children and safety education for gun owners is well known. The State has passed a law requiring safety equipment on firearms. Unfortunately, however, this legislation does not go into effect until 2002.

A number of local concerned residents have requested that the County adopt an ordinance, similar to and consistent with State law, during the interim period (see attached letter and copies of ordinances adopted in two other local jurisdictions). We agree that it would be desirable to implement such an ordinance in our County during this period.

The County Counsel has reviewed the matter and determined that such an ordinance would not be pre-empted by State law (see attached opinion). Attached is an ordinance drafted by the County Counsel that would require, until the State law goes into effect, safety equipment on firearms and the provision of printed material to owners on the safe storage practices for such weapons.

BOARD OF SUPERVISORS
August 8, 2000
Page 2

Because we agree that it is important to provide greater protection from gun violence in our community, we urge the Board to approve the proposed ordinance.

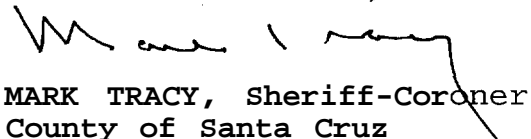
Therefore, we recommend that the Board of Supervisors take the following actions:

1. Approve in concept the attached ordinance requiring safety devices on firearms transferred in the unincorporated area of the County; and
2. Direct that the ordinance return on our next agenda for final adoption.

Sincerely,



MARDI WORMHOUDT, Supervisor
Third District


MARK TRACY, Sheriff-Coroner
County of Santa Cruz

MW/MT:ted
Attachments

cc: Paul Sanford
Maggie Reynolds
Megan Kennedy
Beth Kotkin
Scott Kennedy

1117H3

ORDINANCE NO. _____

**ORDINANCE ADDING CHAPTER 7.91 TO
THE SANTA CRUZ COUNTY CODE RELATING
TO TRIGGER LOCKS AND OTHER SAFETY DEVICES**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 7.91 is hereby added to the Santa Cruz County Code to read as follows:

CHAPTER 7.91

TRIGGER LOCKS AND OTHER SAFETY DEVICES

Sections:

7.91.010	Findings.
7.91.020	Requirements.
7.91.030	Penalties
7.91.040	Effective period.

7.91.010 Findings.

A. In the years 1987 to 1996, nearly 2,200 children in the United States under the age of 15 years died in unintentional shootings. In 1996 alone, 138 children were shot and killed unintentionally. Thus, more than 11 children every month, or one child every three days were shot or killed unintentionally in firearms-related incidents.

B. The United States leads the industrialized world in the rates of children and youth lost to unintentional, firearms-related deaths. A 1997 study from the federal Centers for Disease Control and Prevention reveals that for unintentional firearms-related deaths for children under the age of 15, the rate in the United States was nine times higher than in 25 other industrialized countries combined.

C. While the number of unintentional deaths from firearms is an unacceptable toll on America's children, nearly eight times that number are treated in U.S. hospital

emergency rooms each year for nonfatal unintentional gunshot wounds,

D. A study of unintentional firearm deaths among children in California found that unintentional gunshot wounds most often involved handguns.

E. A recent study (Naureckas, et al., *Children and Women's Ability to Fire Handguns*, 149 Arch. Pediatric Adolescent Medicine 13 18 (1995)) found that children as young as three years old are strong enough to fire most commercially available handguns. The study revealed that 25 percent of three to four year olds and 70 percent of five to six year olds had sufficient finger strength to fire 59 (92 percent) of the 64 commonly available handguns referenced in the study.

F. The Government Accounting Office (GAO), in its March 1991 study, "Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be Prevented," estimates that 31 percent of accidental deaths caused by firearms might be prevented by the addition of two safety devices: a child-resistant safety device that automatically engages and a device that indicates whether the gun is loaded. According to the study results, of the 107 unintentional firearms-related fatalities the GAO examined for the calendar years 1988 and 1989, eight percent could have been prevented had the firearm been equipped with a child-resistant safety device. This eight percent represents instances in which children under the age of six unintentionally shot and killed themselves or other persons.

G. In 1994, the Bureau of Alcohol, Tobacco and Firearms reported that there were more than 222 million firearms in private possession in the United States.

7.91.020 Requirements.

A. No person licensed pursuant to Section 12071 of the Penal Code shall sell, give, lend, or transfer ownership of any firearm, capable of being concealed upon a person, without first equipping the firearm with a trigger lock, locking hard case, locking gun cabinet, safe, or such other device that is designed to prevent the unintentional discharge of the firearm.

B. No person licensed pursuant to Section 12071 of the Penal Code, shall sell, give, lend, or transfer ownership of any firearm, capable of being concealed upon a person, without providing to the person to whom the firearm is transferred printed material that advises the user on safe storage practices.

7.91.030 Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punishable as provided in section 1.12.030 of this code. The remedies and penalties provided for in this chapter shall be in addition to any other available remedies and penalties provided for by this code or other law.

7.91.040 Effective period.

The provisions of this chapter shall become null and void on January 1, 2002.

SECTION II

This ordinance shall take effect on the 3 1st day after the date of final passage.

PASSED AND ADOPTED this ____ day of _____, 2000, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 Chairperson of the
 Board of Supervisors

Attest: _____
 Clerk of the Board

APPROVED AS TO FORM:



 Assistant County Counsel

0370

2 May 2000

Mardi Wormhoudt, Chair
County Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

Dear Chairperson Wormhoudt:

We are writing to ask the Board of Supervisors to adopt further regulation of gun sales in Santa Cruz County by requiring trigger locks or comparable other appropriate safety devices with all guns sold or in possession in the County. We have attached copies of similar legislation adopted by San Jose and Half Moon Bay to give an idea of what other jurisdictions in California have done.

We understand that there is progress on State Law addressing these same issues, but these measures will not go into effect for more than a year.

We think that an ordinance by the County would be' an important and timely statement of the need for further control of handguns for the safety of our children and the welfare of our communities as a whole,

We are writing to ask you to bring this matter before the Board of Supervisors- We would like to meet with individual supervisors to urge adoption of the legislation and to address the Board if and when the issue comes before the board as a whole.

There is a growing demand for further measures to provide greater protection from gun violence in our communities. On Sunday May 14th many local residents will gather in Watsonville to support the Million Mom March in Washington, DC, and its call for sensible gun control legislation. We encourage you to join us for the march in Watsonville.

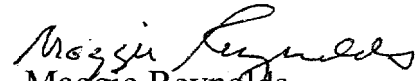
We are looking forward to hearing from you at your earliest convenience about bringing this matter before the Board of Supervisors. Please direct

responses to the Law Office of Paul S. Sanford, 6113 Jason Court, Aptos,
CA 95003 (831) 476-2468

Sincerely,



Paul S. Sanford
Democratic Central Committee*



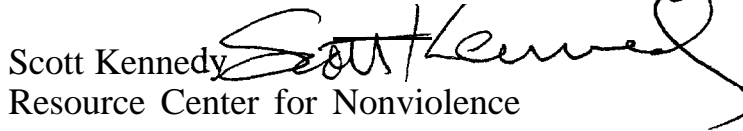
Maggie Reynolds
Alliance for Children



Megan Kennedy
Youth Alliance for Nonviolent Social Change*



Beth Kotkin
Million Mom March



Scott Kennedy
Resource Center for Nonviolence

* Organization for identification purpose only.

San Jose

WEAPONS

§ 10.32.130

0372

10.32.112 Prohibition on the sale of Saturday night specials and junk guns.

- A. The licensee shall strictly comply with the requirements of Chapter 10.33 of this title.
- B. Any failure to so comply shall be grounds for revocation of the license.
(Ord. 25170.)

10.32.115 Trigger lock and safety notice requirements.

- A. No licensee shall sell, give, lend, or transfer ownership of any firearm, capable of being concealed upon a person, without first equipping the firearm with a trigger lock or similar locking mechanism, that is designed to prevent the unintentional discharge of the firearm; and
- 33. No licenses shall sell, give, lend, or transfer ownership of any firearm capable of being concealed upon a person without providing to the person to whom the gun is transferred printed material, either provided or approved by the chief of police, that advises the user on safe storage practices.
- C. Any failure to strictly comply with the requirements of this section shall be grounds for revocation of the license.
(Ord. 25170.)

10.32.120 Suspension and revocation.

Every license issued under this part shall be subject to summary suspension and revocation by the chief of police if that official determines that:

- A. The licensee has failed to meet any of the requirements specified under this chapter;
- B. The licensee has violated any of the conditions or provisions which appear on the license;
- C. The licensee has violated any federal or state firearms sales laws;
- D. The licensee's federal firearms sales license has been revoked;

- E. The licensee has committed any act which could have resulted in denial of issuance of the license.

Notification. It shall be the duty of the chief of police to notify any licensee charged with any violation or misconduct, as described above, by serving such person, either personally or by first class United States mail, with a letter setting forth the particular written standard or condition which has been violated, and informing such licensee of the right to a hearing before the administrative appeals commission, at which time the licensee may appear with counsel if so desired and be heard in defense of the charges. The suspension or revocation shall be effective on the date the notice is served on the licensee. Such notice, if served by United States mail, shall be deemed to have been served on the date of its deposit in the United States mail, postage prepaid, to the licensee's address of record. Failure on the part of the licensee to request in writing a hearing before the administrative appeals commission within ten days after the notice is served, personally or by United States mail, shall result in a permanent revocation of the license.
(Ords. 19500, 20418.)

10.32.130 Hearing.

Upon timely receipt of a written request for a hearing, the administrative appeals commission shall hold a hearing at the time and in the manner set forth in Section 6.02.190 of this code.
(Ord. 19500.)

Part 4**PROJECTILE WEAPONS****Sections:**

10.32.140 Projectile weapons prohibited.

10.32.150 Weapons — Possession, sale and offering for sale prohibited.

SECTION 1 Chapter 9.45, entitled "REGULATIONS FOR FIREARM SALES," is added to Title 9 of the Municipal Code of the City of Half Moon Bay to read as follows:

Section 9.45.010. Definitions.

The following definitions govern the construction of this Chapter:

(a) "Firearm" shall mean any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile by the force of an explosion or other form of combustion.

(b) "Firearm ammunition" shall mean any cartridge or encasement, bullet or projectile, primer or propellant or explosive material used in the manufacture of ammunition.

(c) "Firearm ammunition component" shall mean any cartridge or encasement, bullet or projectile, primer or propellant or explosive material used in the manufacture of ammunition,

(d) "Firearms dealer" shall mean any person, firm, association, partnership, corporation, or other entity which engages in, conducts, or carries on the business of selling, dealing in, trading, or transferring any firearms.

(e) "Saturday Night Special" shall mean any of the following:

(1) A pistol, revolver, or firearm capable of being concealed upon the person, as those terms are defined in California Penal Code Section 12001(a), which contains a frame, barrel, breech block, cylinder or slide that is not complexly fabricated of heat treated carbon steel, **forged alloy**, or other material of equal or higher tensile strength.

(2) A semi-automatic pistol which:

(a) is not originally equipped by the manufacturer with a locked-breech action; and

(b) is chambered for cartridges developing maximum

0374


Section 9.45.040 Sales of "Saturday Night Specials" Prohibited.

No wholesale or retail firearms dealer within the City of Half Moon Bay shall sell, offer or display for sale, give, lend, lease or transfer ownership of, any "Saturday Night Special."

Section 9.45.050 Exemptions.

Nothing in this Chapter relative to the sale of "Saturday Night Specials" shall prohibit the disposition of any firearm by police officers, sheriffs, marshals, or other duly appointed peace officers in the performance of their official duties, nor to persons who are authorized by the United States Government for use in the performance of their official duties; nor shall anything in this Chapter prohibit the use of any firearm by the above-mentioned persons in the performance of their official duties.

Section 9.45.060 Trigger Lock or Other Safety Device Requirement.

 The licensee shall not sell, lease or otherwise transfer a firearm without also selling or otherwise providing with each firearm a trigger lock, locking hard case, locking gun cabinet, safe, or such other device that is designed to prevent the unintentional discharge of the firearm.

Section 9.45.070 Penalties.

Any person or entity, whether as principal, agent, or otherwise, violating or causing or permitting the violation of this Chapter, shall be guilty of a misdemeanor. Upon conviction, the person convicted shall be punished in accordance with Chapter 1.16 of this Code.

SECTION 2. SEVERABILITY

In the event any section or portion of this Ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION 3. PUBLICATION AND EFFECTIVE DATE

Pursuant to the provision of Government Code §36933, a Summary of this Ordinance shall be prepared by the City Attorney, At least five- (5) days prior to the

**Law Office of Paul S. Sanford
6113 Jason Court
Aptos, CA 95003
(831) 476-2468**

Date: November 18, 1999
To: Sheriff Tracy
From: Paul Sanford
Re: Prospective County Gun Ordinance

This is in follow-up to our phone conversation yesterday concerning further regulation of gun sales by requiring trigger locks or other appropriate safety devices.

I researched the issue you presented regarding whether the new state law addresses or preempts such local regulation. The Legal Community Against Violence informs me that the provisions of the new state statute pertaining to safety devices will not take effect until January, 2002, *at the earliest*.

As requested, I am attaching a copy of pertinent the San Jose code section and the ordinance passed in Half Moon Bay.

I hope this information is helpful to you. I look forward to hearing back from you at your convenience. Thanks and best wishes.

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

CONFIDENTIAL
ATTORNEY-CLIENT INFORMATION

DATE: June 2, 2000
TO: Denise Holbert, Administrative Assistant
FROM: Rahn Garcia, Assistant County Counsel
SUBJECT: County Ordinance Requiring Safety Devices on Firearms

You asked whether it would be permissible for the County to enact an ordinance requiring a trigger lock or other safety device at the time that a sale or transfer of a firearm takes place. Upon review of the relevant statutory and case law concerning this question, it is the opinion of this Office that the County has authority to enact an ordinance requiring trigger locks or other similar safety devices when a firearm is 'sold or transferred, however such an ordinance may be preempted by the "Aroner-Scott-Hayden Firearms Safety Act of 1999", when that act's provisions requiring safety devices for firearms goes into effect on January 1, 2002.

In Suter v. City of Lafayette (1997) 57 Cal.App.4th 1109, the Appellate Court upheld a municipal ordinance that, inter alia, imposed licensing requirements on persons dealing firearms within the city. One of the licensing provisions upheld by the Court was a requirement that dealers provide a security device with each firearm sold or transferred. The Court expressly rejected the plaintiffs argument that this provision was preempted by State law.

Subsequent to the Suter decision, the "Aroner-Scott-Hayden Firearms Safety Act of 1999" was enacted. This measure requires that after January 1, 2002, all firearms sold or transferred in the state, or manufactured in California, be accompanied by a firearm safety device approved by the Department of Justice. I have attached a copy of this act and highlighted the provisions concerning trigger locks/safety devices.

The County has authority to enact an ordinance requiring a trigger lock or other safety

device be provided when firearms are sold or transferred, however, this authority may be subject to preemption by state law as of January 1, 2002. Although the Firearms Safety Act of 1999 does not include an express preemption provision, a local ordinance would be preempted if it either contradicts or duplicates the state law, or if it enters an area that the state intended to fully occupy . Bravo Vending v. City of Rancho Mirage (1993) 16 Cal.App.4th 383, 396-397.

The County could enact an ordinance that limits its effective period to have the provisions become null and void as of January 1, 2002. Alternatively, an ordinance which does not duplicate or contradict the state act could be considered. The latter alternative may still subject the County to a preemption challenge based on a claim that the State intended to fully occupy the field of firearm safety requirements by enactment of the Firearms Safety Act of 1999. I have also attached a draft ordinance that would accomplish the former alternative for your review and consideration.

Please contact me if you would like to discuss this matter or if you have any further questions.

RG:rg
Enclosures

Assembly Bill No. 106

CHAPTER 246

An act to add Article 4.5 (commencing with Section 12087) to Chapter 1 of Title 2 of Part 4 of the Penal Code, relating to **firearm** safety devices.

[Approved by Governor August 27, 1999. Filed with
Secretary of State August 30, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 106, Scott. Firearms: safety devices.

Existing law generally regulates the transfer and possession of **firearms**.

This bill would establish the **Aroner-Scott-Hayden** Firearms Safety Act of 1999 (the act).

This bill would require that, except as provided, effective January 1, 2002, **all** firearms sold or transferred in this state, or manufactured in this state, be accompanied by a firearms safety device approved by the Department of Justice.

This bill would require the Attorney General, not later than January 1, 2000, to begin development of minimum safety standards for firearms safety devices that are designed to reduce the risk of unintentional **injury** by firearms. The bill would also provide that the Attorney General report to the Legislature regarding the standards by January 1, 2001, and that the standards be effective January 1, 2002.

The bill would require the Department of Justice, effective January 1, 2001, to certify laboratories to test child safety devices, and would authorize the Department of Justice to charge the laboratories a fee not exceeding the costs of certification. The bill would also require the department to notify the manufacturer or dealer of the department's determination regarding whether the firearms safety device may be sold **in** this state. The bill would **further** require the department, not later than July 1, 2001, to compile, publish, and maintain a roster listing all safety devices that have been tested as described above, have been determined by the department to meet the standards for child safety devices, and that may be sold in this state.

This bill would require any packaging or other descriptive material that accompanies a firearm sold or transferred or manufactured in this state, to bear a label with a specified warning. The bill would also require the warning label be affixed to the firearm if the **firearm** is sold, transferred or delivered in this state without accompanying packaging.

This bill would authorize the Attorney General to recall any gun safe or firearms safety device sold in this state after January 1, 2002, that **does** not conform to specified provisions of the act, as specified.

This bill would require each lead law enforcement agency investigating an incident to report specified information to the State Department of Health Services in connection with unintentional gunshot wounds sustained by children after the effective date of the act.

This bill would provide that any violation of specified provisions of the act would be punishable by a fine of \$1,000. A second violation of those provisions would be punishable by a fine of \$1,000 and would render a licensed manufacturer, or a licensed California dealer ineligible to manufacture or sell firearms for 30 days in this state. A third violation of those provisions would render a licensed manufacturer, or a licensed California dealer permanently ineligible to manufacture, or sell firearms in this state.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would declare that the act does not relieve any person from liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance.

This bill would declare that the act does not apply to the commerce of certain firearms, as specified.

The bill would authorize the Department of Justice to require a firearm dealer to charge a firearm purchaser or transferee as specified, a fee not to exceed one dollar for each firearm transaction. The fee would be for the purpose of supporting various department program costs related to the act, as specified. The fees would be deposited into a special account created by this bill, to be available upon appropriation for purposes of the program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Article 4.5 (commencing with Section 12087) is added to Chapter 1 of Title 2 of Part 4 of the Penal Code, to read:

Article 4.5. Firearms Safety Devices

12087. This article shall be known and may be cited as the “**Aroner-Scott-Hayden** Firearms Safety Act of 1999.”

12087.5. The Legislature makes the following findings:

(a) In the years 1987 to 1996, nearly 2,200 children in the United States under the age of 15 years died in unintentional shootings. In 1996 alone, 138 children were shot and killed unintentionally. Thus, more than 11 children every month, or one child every three days, were shot or killed unintentionally in **firearms-related** incidents.

(b) The United States leads the industrialized world in the rates of children and youth lost to unintentional, firearms-related deaths. A 1997 study **from** the federal Centers for Disease Control and Prevention reveals that for unintentional firearm-related deaths for children under the age of 15, the rate in the United States was nine times higher than in 25 other industrialized countries combined.

(c) While the number of unintentional deaths from firearms is an unacceptable toll on America's children, nearly eight times that number are treated in U.S. hospital emergency rooms each year for nonfatal unintentional gunshot wounds.

(d) A **study** of unintentional firearm deaths among children in California found that unintentional gunshot wounds most often involve handguns.

(e) A study in the December 1995 issue of the Archives of Pediatric and Adolescent Medicine found that children as young as three years old are strong enough to fire most commercially available handguns. The study revealed that 25 percent of three to four year olds and 70 percent of five to six year olds had sufficient finger strength to fire 59 (92 percent) of the 64 commonly available handguns referenced in the study.

(f) The Government Accounting Office (GAO), in its March 1991 **study**, "Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be Prevented," estimates that 31 percent of accidental deaths caused by firearms might be prevented by the addition of two safety devices: a child-resistant safety device that automatically engages and a device that indicates whether the gun is loaded. According to the study results, of the 107 unintentional firearms-related fatalities the GAO examined for the calendar years 1988 and 1989, eight percent could have been prevented had the **firearm** been equipped with a child-resistant safety device. This eight percent represents instances in which children under the age of six unintentionally shot and killed themselves or other persons.

(g) Currently, firearms are the only products manufactured in the United States that are not subject to minimum safety standards.

(h) A 1997 public opinion, poll conducted by the National Opinion Research Center at the University of Chicago in conjunction with the Johns Hopkins Center for Gun. Policy and Research found that 74 percent of Americans support safety regulation of the firearms industry.

(i) Some currently available trigger locks and other similar devices are inadequate to prevent the accidental discharge of the

firearms to which they are attached, or to prevent children from gaining access to the firearm.

12088. Effective January 1, 2001:

(a) The Department of Justice shall certify laboratories to verify compliance with standards for firearms safety devices set forth in Section 12088.2.

(b) The Department of Justice may charge any laboratory that is seeking certification to test firearms safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to Section 12088.2.

(c) The certified laboratory shall, at the manufacturer's or dealer's expense, test the firearms safety device and submit a copy of the final test report directly to the Department of Justice along with the firearms safety device. The department shall notify the manufacturer or dealer of its receipt of the **final** test report and the department's determination as to whether the firearms safety device tested may be sold in this state.

(d) On and after July 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for **firearms** safety devices and may be sold in this state.

(e) The roster shall list, for each **firearms** safety device, the **manufacturer, model number, and model name**.

12088.1. Effective January 1, 2002:

(a) All firearms sold or transferred in this state by a licensed **firearms** dealer, including private transfers through a dealer, and all firearms manufactured in this state, shall include or be accompanied by a firearms safety device that is listed on the Department of Justice's roster of approved firearms safety devices.

(b) All firearms sold or transferred in this state by a licensed **firearms** dealer, including private transfers through a dealer, and all firearms manufactured in this state shall be accompanied with warning language or labels as described in Section 12088.3.

(c) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the **standards** set forth in Section 12088.2. Gun safes shall not be required to be tested, and therefore may meet the standards without **appearing** on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for **purchase** of the gun safe, or other proof of purchase or ownership of the **gun** safe as authorized by the Attorney General, to the firearms **dealer**. The dealer shall maintain a copy of this receipt or proof of **purchase** with the dealers' record of sales of firearms.

(d) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of the following apply:

(1) The purchaser or transferee purchases an approved safety device no more than 30 days prior to the day the purchaser or transferee takes possession of the firearm.

(2) The purchaser or transferee presents the approved safety device to the **firearms** dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer which shows the date of purchase, the name, and the **model** number of the safety device.

(4) The firearms dealer verifies that the requirements in (1) to (3), inclusive, have been satisfied.

(5) ~~The firearms dealer maintains a copy of the receipt along with the dealer's record of sales of firearms.~~

12088.2. (a) No later than January 1, 2000, the Attorney General shall commence development of regulations to implement a minimum safety standard for **firearms** safety devices and gun safes to significantly reduce the risk of firearms-related injuries to children 17 years of age and younger. The final standard shall do all of the following:

(1) Address the risk of injury from unintentional gunshot wounds.

(2) Address the risk of injury from self-inflicted gunshot wounds by unauthorized users.

(3) Include provisions to ensure that all firearms safety devices and **gun** safes are reusable and of adequate quality and construction to prevent children and unauthorized users from **firing** the **firearm** and to ensure that these devices cannot be readily removed from the firearm or that the firearm cannot be readily removed from the gun safe except by an authorized user utilizing the key, combination, or other method of access intended by the **manufacturer** of the device.

(4) Include additional provisions as appropriate.

(b) The Attorney General may consult, for the purposes of guidance in development of the standards, test protocols such as those described in Title 16 (commencing with Part 1700) of the Code of Federal Regulations, relating to poison prevention packaging standards. These protocols may be consulted to provide suggestions for potential methods to utilize in developing standards and shall serve as guidance only. The Attorney General shall also give appropriate consideration to the use of devices that are not detachable, but are permanently installed and incorporated into the design of a firearm. The Attorney General shall adopt and issue regulations implementing a final standard not later than January 1, 2001. The Attorney General shall report to the Legislature on these standards by January 1, 2001. The final standard shall be effective January 1, 2002.

12088.3. (a) The packaging of any **firearm** and any descriptive materials that accompany any firearm sold or transferred in this state,

or delivered for sale in this state, by any licensed manufacturer, or licensed dealer, shall bear a label containing the following warning statement:

WARNING

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 **fin**ed or sent to prison.

A yellow triangle containing an exclamation mark shall appear immediately before the word "Warning" on the label.

(b) 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.

(c) The warning statement required under subdivisions (a) and (b) shall be:

(1) Displayed in its entirety on the principal display panel of the firearm's package, and on any descriptive materials that accompany the firearm.

(2) 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 Part 1500.121 of Title 16, of the Code of Federal Regulations, or successor regulations thereto.

12088.4. If at any time the Attorney General determines that a gun safe or firearms safety device subject to the provisions of this article and sold after January 1, 2002, does not conform with the standards required by subdivision (a) of Section 12088.1 or Section 12088.2, the Attorney General may order the recall and replacement of the gun safe or firearms safety device, or order that the gun safe or firearm safety device be brought into conformity with those requirements. If the firearms safety device cannot be separated from the firearm without damaging the **firearm**, the Attorney General may order the recall and replacement of the **firearm**. If the firearms safety device can be separated and reattached to the firearm without damaging the firearm, the licensed manufacturer or licensed firearms dealer shall immediately provide a conforming replacement as instructed by the Attorney General.

12088.5. Each law enforcement agency investigating an incident shall report to the State Department of Health Services any information obtained that reasonably supports the conclusion that:

(a) A child 18 years of age or younger suffered an unintentional or self-inflicted gunshot wound inflicted by a firearm that was sold or transferred in this state, or manufactured in this state.

(b) Whether as a result of that incident the child died, suffered serious injury, or was treated for an injury by a medical professional.

~~12088.6. Any violation of Section 12088.1 or Section 12088.3 is~~
punishable by a fine of one thousand dollars (\$1,000). On the second violation of any of those sections, the licensed firearm manufacturer shall be ineligible to manufacture, or the licensed firearm dealer shall be ineligible to sell, firearms in this state for 30 days, and shall be punished by a fine of one thousand dollars (\$1,000). On the third violation of any of those sections, a firearm manufacturer shall be permanently ineligible to manufacture firearms in this state. On the third violation of any of those sections, a licensed firearm dealer shall be permanently ineligible to sell firearms in this state.

12088.7. Compliance with the requirements set forth in this article shall not relieve any person from liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance.

12088.8. (a) This article does not apply to the commerce of any firearm defined as an "antique firearm" in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

(b) This article shall not apply to the commerce of any firearm intended to be used by a salaried, full-time peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 for purposes of law enforcement. Nothing in this article shall preclude local governments, local agencies, or state law enforcement agencies from requiring their peace officers to store their firearms in gun safes or attach firearms safety devices to those firearms.

12088.9. (a) The Department of Justice may require each dealer to charge each firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm transaction. The fee shall be for the purpose of supporting department program costs related to this act, including the establishment, maintenance, and upgrading of related data base systems and public rosters.

(b) There is hereby created within the General Fund the Firearm Safety Account. Revenue from the fee imposed by subdivision (a) shall be deposited into the Firearm Safety Account and shall be available for expenditure by the Department of Justice upon appropriation by the Legislature. Expenditures from the Firearm Safety Account shall be limited to program expenditures as defined by subdivision (a).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime

or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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