
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 2510 **Hearing Date:** June 21, 2016
Author: Linder
Version: February 19, 2016
Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: *Firearms: License to Carry Concealed: Uniform License*

HISTORY

Source: California State Sheriffs' Association

Prior Legislation: None known

Support: Association of Los Angeles Deputy Sheriffs; California Police Chiefs Association; California Rifle and Pistol Association; Los Angeles County Professional Peace Officers Association; Los Angeles Police Protective League; National Rifle Association; Riverside Sheriffs' Association; Rick Farinelli, District 3 Supervisor, County of Madera

Opposition: California Association of Federal Firearms Licensees; Firearms Policy Coalition

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to (1) require the Attorney General to develop a license to carry a concealed firearm (CCW), with uniform information and criteria, that may be used as indicia of proof of licensure throughout the state, and (2) approve the use of licenses issued by local agencies and to retain exemplars of approved licenses and a list of agencies issuing local licenses, as specified.

Existing law states that a county sheriff or municipal police chief may issue a license to carry a handgun capable of being concealed upon the person upon proof of all of the following:

- The person applying is of good moral character (Penal Code §§ 26150 and 26155(a)(1));
- Good cause exists for the issuance (Penal Code §§ 26150 and 26155(a)(2));
- The person applying meets the appropriate residency requirements (Penal Code §§ 26150 and 26155(a)(3)); and,
- The person has completed the appropriate training course, as specified. (Penal Code §§ 26150 and 26155(a)(4)).

Existing law states that a county sheriff or a chief of a municipal police department may issue a license to carry a concealed handgun in either of the following formats:

- A license to carry a concealed handgun upon his or her person (Penal Code §§ 26150 and 26155(b)(1)); or,
- A license to carry a loaded and exposed handgun if the population of the county, or the county in which the city is located, is less than 200,000 persons according to the most recent federal decennial census. (Penal Code §§ 26150 and 26155(b)(2).)

Existing law provides that a license may include any reasonable restrictions or conditions that the issuing authority deems warranted. (Penal Code § 26200.)

Existing law specifies that applications for CCW licenses, applications for amendments to CCW licenses, amendments to CCW licenses, and CCW licenses under this article shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. (Penal Code § 26175(a)(1).)

Existing law provides that the Attorney General shall convene a committee composed of one representative of the California State Sheriffs' Association, one representative of the California Police Chiefs Association, and one representative of the Department of Justice to review, and as deemed appropriate, revise the standard application form for CCW licenses. The committee shall meet for this purpose if two of the committee's members deem that necessary. (Penal Code § 26175(a)(2).)

Existing law states that the application shall include a section summarizing the statutory provisions of state law that result in the automatic denial of a license. (Penal Code § 26175(b).)

Existing law provides that the standard application form for CCW licenses shall require information from the applicant, including, but not limited to, the name, occupation, residence, and business address of the applicant, the applicant's age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. (Penal Code § 26175(c).)

Existing law specifies that applications for licenses shall be filed in writing and signed by the applicant. (Penal Code § 26175(d).)

Existing law provides that applications for amendments to CCW licenses shall be filed in writing and signed by the applicant, and shall state what type of amendment is sought and the reason for desiring the amendment. (Penal Code § 26175(e).)

Existing law states that the forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application. (Penal Code § 26175(f).)

Existing law provides that an applicant shall not be required to complete any additional application or form for a license, or to provide any information other than that necessary to complete the standard application form, except to clarify or interpret information provided by the applicant on the standard application form. (Penal Code § 26175(g).)

Existing law states that the standard application form is deemed to be a local form expressly exempt from the requirements of the Administrative Procedures Act. (Penal Code § 26175(h).)

Existing law provides that any CCW license issued upon the application shall set forth the licensee's name, occupation, residence and business address, the licensee's age, height, weight, color of eyes and hair, and the reason for desiring a license to carry the weapon, and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number, and the caliber. The license issued to the licensee may be laminated. (Penal Code § 26175(i).)

This bill requires the Attorney General to develop a uniform CCW license that may be used as indicia of proof of licensure throughout the state.

This bill requires the Attorney General to approve the use of licenses issued by local agencies if they contain specified information and a recent photograph of the applicant.

This bill requires the Attorney General to retain exemplars of approved licenses and maintain a list of agencies issuing local licenses.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re:

Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for Legislation

According to the author:

Existing law requires that licenses permitting persons to lawfully carry a concealed firearm (CCW) must be uniform throughout the state. However, the current form/license approved by the Department of Justice (DOJ) is a paper document that does not lend itself to being easily carried on one's person. Nothing in existing law specifically permits CCW-authorizing agencies to issue its own CCW identity document in a more user-friendly format.

2. Effect of Legislation

This bill specifies that the Attorney General develop a uniform CCW license that may be used as indicia of proof of licensure throughout the state. The information on the license should be uniform and consistent. However, the bill does not require that the licenses themselves be identical in the same way that a California Driver's License is, other than the specified information. Opponents of the bill would like the information and appearance of the concealed carry license to be consistent across the state. However, the proponents of the bill are concerned that by mandating such consistency, that the costs to certain jurisdictions to update their systems to meet those requirements would be prohibitive.

The bill additionally requires the Attorney General to approve the use of licenses issued by local agencies if they contain specified information and a recent photograph of the applicant. The opponents argue that this provision will further provide for inconsistencies appearing in licenses throughout the state. The proponents of the legislation are more concerned with requiring consistent content on the licenses, and providing a card that can be carried upon the licensee easier than the paper permit. By not requiring the paper permit and permitting an identification card to be used as a CCW, proponents argue that public safety is enhanced because more people will have their license with them while they are carrying a concealed weapon.

3. Argument in Support

According to the California State Sheriffs' Association:

Existing law, Penal Code Section 26175, generally governs the process for the issuance of licenses that permit persons to lawfully carry concealed firearms. The application and the licenses themselves must be uniform throughout the state. Any license issued must include the licensee's name, occupation, residence and business address, age, height, weight, color of eyes and hair, and the reason for desiring a license to carry the weapon. The license is also required to contain a description of the weapon or weapons authorized to be carried, including the name of the manufacturer, the serial number, and the caliber.

As a practical matter, the current CCW license is not produced in a format that is easy to carry on one's person. In response, some sheriff offices currently provide a county identification card, which provides additional security features, and often includes a photograph of the licensee. This county-issued card cannot take the place of the standard DOJ CCW license, however, and licensees end up carrying both documents.

It makes sense to carry one's CCW license on his or her person when armed. It also stands to reason that issuers of CCW licenses should be able to provide these documents in a more convenient way that improves public safety by allowing better identification of CCW holders. This bill simply authorizes county-issued CCW identification to be carried in lieu of the standard DOJ form, as long as it contains all of the information currently required by law, as well as a photograph of the licensee. Nothing in AB 2510 requires a permitting agency to do anything different than what they currently do – the bill merely provides an alternative avenue to ensure proper licensure and identification.

4. Argument in Opposition

According to the Firearms Policy Coalition:

Current law requires that all licenses to carry in California to be uniform throughout the state. An officer who encounters a license from El Dorado County should be seeing the exact same permit as from Riverside County-- and it should be readily identifiable as such.

AB 2510 undoes this longstanding, successful scheme and creates a patchwork quilt of licenses that must be presented upon request (or sometimes even without a request, depending on local policies) to any law enforcement officer during a stop or other contact.

If all 450 or so issuing agencies (58 sheriffs and over 400 chiefs of police) were to make up their own permit, it would cause confusion, put our members and law enforcement in danger-- not only in California--but in those states that honor our licenses.

In addition, it would put Federal Firearms Licensees (FFL's) in the awkward and criminally liable position of judging which of the 400-plus licenses are valid, in order to comply with statutory exemptions for proof of residency and firearms safety certificates at the point of sale.

Sadly, some local sheriffs have taken it upon themselves to issue local identification cards or quasi-licenses, despite the clear prohibition against it. Now, they have sponsored AB 2510 to grant themselves absolution without any respect for the purposes of the law enforcement committee that originally chose the uniform standard per the penal code.

The proponents may argue that the current unnecessary and superfluous local licenses or identification cards they issue for various non-statutory reasons are simply supplemental, simply to be easier to carry, simply more attractive, or some other rationalization --so they have come to the legislature seeking validation of their irresponsible conduct. The proponents have argued that the measure actually creates uniformity, when in fact it does just the opposite. The proponents have argued that there will be training when, in fact, there is none. The proponents have argued that it will make the license modern and more secure, but nothing in the measure points to anything related to that.

Regardless of how it is explained away, the creation of potentially 450 unique licenses is irresponsible, unnecessary, dangerous and expensive. It is akin to having hundreds of local drivers' licenses.

In order to comply with AB 2510, the California Department of Justice (CADOJ) will have to hire or reassign multiple full time equivalent staff to implement the new state mandates; create an optional license (counter-intuitively named "uniform"), review and approve all non-uniform local licenses and retain and update the exemplars in perpetuity. In order for the system to work, they will also have to keep all FFL's and law enforcement officers and agencies abreast – in real time—of any changes to any of the 400-something local licenses in perpetuity.

CADOJ will have to change their forms, policies and regulations to create a new, optional, tragically mis-named "uniform" license—which the local issuing authorities *may* use. The CADOJ then *shall* be forced to give their stamp of approval when any local sheriff or police chief makes a change to the size, shape, color, material, tamper resistance (if any) or logo (if any) on the card as long as it has basic information on it. To what end? Why create new mandates on a state agency to justify the whimsy of local politicians who want to leave their personal brand on what is supposed to be a statewide license?

-- END --