
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 3064 **Hearing Date:** June 25, 2024
Author: Maienschein
Version: April 25, 2024
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms*

HISTORY

Source: Department of Justice

Prior Legislation: SB 243 (Seyarto, 2023), failed in Senate Governance and Finance
AB 1009 (Gabriel, 2019), vetoed by the Governor
AB 376 (Portantino, Ch. 738, Stats. of 2019)
SB 746 (Portantino, Ch. 780, Stats. of 2018)
SB 880 (Hall, Ch. 48, Stats. of 2016)
AB 1135 (Levine, Ch. 40, Stats. of 2016)
AB 106 (Scott, Ch. 246, Stats. of 1999)

Support: Brady California; Brady Campaign; Giffords

Opposition: California Rifle and Pistol Association; Gun Owners of California, Inc.; Peace Officers Research Association of California

Assembly Floor Vote: 54 - 15

PURPOSE

The purpose of this bill is to impose new requirements on manufacturers of firearm safety devices (FSDs) and the Department of Justice (DOJ) with regard to those devices, and to modernize the process for submitting required firearm transfer and ownership reports to the DOJ, as specified.

Existing law sets forth various findings and declarations regarding firearm safety standards and the prevalence of unintentional deaths due to firearms. (Pen. Code, § 23625.)

Existing law defines “firearm safety device” as a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm. (Pen. Code, § 16540.)

Existing law requires that any firearm sold or transferred in California by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall include or be accompanied by a DOJ-approved firearm safety device (FSD), as listed on the DOJ’s roster of such devices. (Pen. Code § 23635, subd. (a).)

Existing law exempts from this FSD requirement and related requirements commerce related to an antique firearm and commerce of any firearm intended to be used by a peace officer, as specified. (Pen. Code § 23630.)

Existing law requires firearms and specified firearm safety devices sold in the state to be accompanied by warning language or labels, as specified. (Pen. Code § 23635, subs. (d), (e); § 23640.)

Existing law requires the Attorney General to develop regulations to implement a minimum safety standard for firearm safety devices and gun safes to significantly reduce the risk of firearm-related injuries to children 17 years of age and younger, as specified. (Pen. Code § 23650.)

Existing law requires the DOJ to certify laboratories to verify compliance with standards for firearm safety devices. (Pen. Code, § 23655, subd. (a).)

Existing law authorizes the DOJ to charge any laboratory that is seeking certification to test firearm safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of specified regulations and standards. (Pen. Code, § 23655, subd. (b).)

Existing law requires the certified laboratory shall, at the manufacturer's or dealer's expense, to test a firearm safety device and submit a copy of the final test report directly to the DOJ, along with the firearm safety device; requires the DOJ to notify the manufacturer or dealer of its receipt of the final test report and the DOJ's determination as to whether the FSD tested may be sold in this state. (Pen. Code, § 23655, subd. (c).)

Existing law requires the DOJ to compile, publish, and maintain a roster listing all of the firearm safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for FSD, and may be sold in this state. (Pen. Code, § 23655, subd. (d).)

Existing law provides that the roster shall list, for each FSD, the manufacturer, model number, and model name, and that the DOJ may randomly retest samples obtained from sources other than directly from the manufacturer of the FSD listed on the roster to ensure compliance with the requirements of these provisions. (Pen. Code, § 23655, subd. (e), (f).)

Existing law requires FSDs used for random sample testing and obtained from sources other than the manufacturer to be in new, unused condition, and still in the manufacturer's original and unopened package; (Pen. Code, § 23655, subd. (g).)

Existing law provides that if the Attorney General determines that a gun safe or FSD does not conform with specified standards the Attorney General may order the recall and replacement of the gun safe or FSD, or order that the gun safe or FSD be brought into conformity with those requirements. (Pen. Code, § 23680, subd. (a).)

Existing law provides that if the FSD 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. (Pen. Code, § 23680, subd. (b).)

Existing law provides that if the FSD cannot be separated from the firearm without damaging the firearm, the Attorney General may order the recall and replacement of the firearm. (Pen. Code, § 23680, subd. (c).)

This bill specifies, that for the purposes of FSD provisions in this bill and in existing law, the following terms have the following definitions:

- “Department” means DOJ.
- “Device” means DOJ-approved firearm safety device.
- “Roster” means the roster of approved FSDs maintained by the DOJ.

This bill specifies that a certified laboratory must test a device and submit a copy of the final test report regardless of whether the device has passed or failed to meet standards, and for those devices that have passed, must send one prototype of the device to the DOJ.

This bill provides that an FSD shall not be added to the roster after January 1, 2025 unless the entity seeking the listing has complied with specified provisions of the Corporations Code and unless the name of the manufacturer, the model number, and the model name as they appear on the roster are engraved or permanently affixed to the device.

This bill authorizes, commencing January 1, 2026, the DOJ, for each device listed on the roster, to charge the entity that manufactures, causes to be manufactured, or imports the device into the state for sale, an annual fee not to exceed the costs of research and development, report analysis, storage of prototype devices, and other program infrastructure costs necessary to implement the provisions of law related to FSDs, which shall be paid no later than on the first business day of each calendar year.

This bill authorizes the DOJ to remove from the roster any device for which the above fee has not been paid.

This bill provides that if a FSD is removed from the roster due to a manufacture’s failure to pay the fee authorized by this bill, the listing entity may request that the device be relisted by paying any delinquent fees and doing either of the following:

- Submitting a statement to the DOJ, signed under penalty of perjury, that the device to be relisted is identical to the device previously listed on the roster.
- Submitting a petition for reinstatement to the DOJ, along with a sample device to be relisted, the complete testing history of the device, and fees, as specified by the DOJ, sufficient to pay for the retesting and relisting of the device.

This bill provides if the above petition is submitted, the sample device shall be retested, and if a retested device passes testing and is otherwise in compliance with existing law, the DOJ shall relist the device on the roster. However, if a retested device does not pass testing, it shall not be relisted or retested.

This bill specifies that the DOJ may retest any device at any time.

This bill provides that the DOJ may approve an untested device and list that device on the roster if a model of the device made by the same manufacturer is already listed and the unlisted device differs from the listed device in only one or more of the following features:

- Finish, including, but not limited to, color or engraving.
- Any feature that does not in any way alter the material or functioning of any of the components of the device. Dimensional changes may be approved by the department without additional testing on a case-by-case basis when the dimensional changes do not alter the device's ability to operate in the same manner demonstrated in the laboratory, including when the dimensional changes do not alter the size of the door or the locking bolts.
- Any change in name or model number that does not affect the design or function of the device.
- Any engraved or permanently affixed marking regarding the manufacturer or model number, as specified.

This bill requires any manufacturer seeking to have a device approved pursuant to the above provision to provide the DOJ with the following:

- The model name and model number of the device that is already listed on the roster.
- The model name and model number of each firearm safety device the manufacturer seeks to have listed pursuant to this section.
- A statement, signed under penalty of perjury, that each unlisted device for which listing is sought differs from the listed device only in one or more of the ways identified in subdivision (a) and is in all other respects identical to the listed device.

This bill requires the DOJ to review each device submitted pursuant to the above on a case-by-case basis to determine whether new testing by a certified lab is required, and provides that the DOJ may, in its discretion and at any time, require a manufacturer to provide the department a sample of any device for which listing is sought.

This bill provides if a FSD on the roster is recalled by the United States Consumer Product Safety Commission, or by any other state or federal government entity, the manufacturer of that firearm safety device must notify the DOJ of the recall within seven days of public notice of the recall.

This bill authorizes the DOJ to remove from the roster a FSD that is the subject of a recall by the United States Consumer Product Safety Commission or any other state or federal government entity.

Existing law defines a "personal firearm importer" as non-licensed individual who has moved into the State of California, owns a firearm that is legal within the state, and intends to possess that firearm within the state, as specified. (Penal Code § 17000.)

Existing law requires that, within 60 days of bringing, any firearm, into this state, a personal firearm importer shall do one of the following:

- Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question;
- Sell or transfer the firearm, as specified;
- Sell or transfer the firearm to a licensed dealer, as specified; or,
- Sell or transfer the firearm to a sheriff or police department. (Pen. Code, § 27560, subd. (a).)

This bill modifies bullet (1) above, requiring that the required report be submitted either by prepaid mail *or* electronically, and providing that the DOJ may request photos of the firearm to determine if the firearm is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited.

Existing law generally prohibits the sale, lease or transfer of firearms unless the person has been issued a license by the California Department of Justice, and establishes various exceptions to this prohibition. (Pen. Code §§26500 – 26625.)

Existing law provides that where neither party to a firearms transaction holds a dealer’s license (i.e. a “private party transaction”), the parties shall complete the transaction through a licensed firearms dealer. (Pen. Code §27545.)

Existing law provides that if all of the following requirements:

- The firearm is not a handgun.
- The firearm is a curio or relic, as defined.
- The person receiving the firearm has a current certificate of eligibility, as specified.
- The person receiving the firearm is licensed as a collector, as specified.
- Within 30 days of taking possession of the firearm, the person to whom it is transferred shall forward by prepaid mail, or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this section shall be provided to them by the department.

This bill instead authorizes submission of the required report either by prepaid mail or electronically, and providing that the DOJ may request photos of the firearm to determine if the firearm is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited.

Existing law sets forth various exemptions to the requirement that a private party transaction occur through a licensed dealer (Pen. Code §§ 27850 – 27970.)

Existing law provides that a person exempt from the requirement that a private party transaction occur through a licensed dealer or is otherwise exempt from reporting the acquisition, ownership, destruction, or disposal of a firearm, or who moves out of this state with the person's firearm, may report that information to the Department of Justice in a format prescribed by the department. (Pen. Code §28000.)

This bill authorizes specified persons not required to report acquisition or ownership of a firearm or who moves out of the state with the person's firearm, to report that information either by prepaid mail or electronically to the DOJ, and must include, without limitation:

- The name, gender, date and place of birth, address, and telephone number of the applicant.
- The country of citizenship of the applicant and, if not a citizen of the United States, proof of lawful presence.
- The make, model, caliber, barrel length, type, country of origin, and serial number of the firearm, or, if the firearm does not have a serial number, the identification number, or identification mark assigned to it.
- The applicant's valid California driver's license number or valid California identification card number issued by the Department of Motor Vehicles, or a copy of the applicant's military identification with orders indicating that the individual is stationed in California.
- The signature of the applicant and the date of signature.

This bill provides that furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the above form is punishable as a misdemeanor.

This bill requires the DOJ to establish a fee for the submission of the above form and an additional fee for each additional firearm. This fee shall not exceed the reasonable and actual costs of processing the form submitted pursuant to this section. The DOJ may annually review and adjust this fee to fully fund, but not exceed, these costs.

This bill authorizes the DOJ to request photographs of a firearm to determine if it is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited.

This bill provides, that upon receipt of the above completed application and any required fee, the DOJ shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

This bill provides that a person may report the destruction or disposal of a firearm, and a person who moves out of the state with a firearm may report that move, to the DOJ either by prepaid mail or electronically, in a manner and form prescribed by DOJ.

COMMENTS

1. Need for This Bill

According to the Author:

California has enacted strong firearm safety laws to reduce the number of accidental incidents involving guns and to help prevent children from accessing dangerous weapons. AB 3064 is a common sense measure to help Californians comply with the law. The bill requires all firearm safety devices to be labeled with make and model information. This helps consumers ensure they are purchasing an approved product that isn't counterfeit, and it aids law enforcement's work to verify firearms are stored appropriately with approved devices. AB 3064 will also help consumers in the event that a firearm safety device is recalled by ensuring they know the exact make of their device. Lastly, AB 3064 removes antiquated statutes that require individuals to file firearm transactions reports in hard-copy despite there being electronic reporting alternatives.

2. Firearm Safety Devices

Effective January 1, 2002, the Aroner-Scott-Hayden Firearms Safety Act of 1999¹ (AB 106, Ch. 246, Stats. of 1999) required all firearms sold, transferred or manufactured within California be accompanied by a DOJ-approved firearms safety device (FSD), which a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firearm a firearm. An FSD may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm. Existing law prohibits anyone from selling an FSD that is not listed on the DOJ roster of approved devices or that does not meet the FSD minimum safety standards set by DOJ.² Under existing law, the general requirement that firearms be accompanied by an FSD does *not* apply to antique firearms, firearms acquired by law enforcement agencies, if the purchaser or transferee provides proof that they own or have purchased a gun safe that meets specified standards, or if they have purchased an approved FSD within 30 days of the purchase or transfer and present the dealer with the FSD and proof of that purchase when they take possession of the firearm. Of particular relevance to this bill, existing law also provides that DOJ's roster of approved FSDs may only include FSDs that have been tested by a DOJ-certified testing laboratory and that meet DOJ's FSD minimum standards. Further, DOJ is authorized to randomly retest roster samples from sources other than the manufacturer to ensure compliance with said standards.³

According to the Author, given the sheer volume of the current FSD roster, existing law is insufficient to ensure consumer safety:

There are over 2,300 FSDs on that roster, many of which look exactly alike, but approximately 75 percent of those devices have no make and model information marked on the actual product. This makes it difficult for both law enforcement and consumers to discern if the device is an approved model. More importantly, if a

¹ Codified at Penal Code §23620 et. seq.

² The 2553-page roster of DOJ-approved FSDs can be found here: [allmakes \(ca.gov\)](http://allmakes.ca.gov)

³ DOJ's regulations regarding certified laboratories, FSD standards and testing, and standards for gun safes can be found at California Code of Regulations, tit. 11, §§ 4080-4109

consumer owns a FSD that has been recalled, is defective, or has a warranty issue, they are unable to identify if their particular device is affected, and this may result in the continued use of an unsafe or ineffective FSD.

To address these issues, this bill imposes several new requirements on FSD manufacturers aimed at improving the reliability of FSDs for consumers and bolstering DOJ's ability to ensure compliance with the requirements described in the previous paragraph. Centrally, the bill requires that beginning January 1, 2025, a device shall not be added to the FSD roster unless the name of the manufacturer, model number, and model name are engraved or otherwise permanently affixed to the device.⁴ Commencing January 1, 2026, the bill authorizes the DOJ to charge FSD manufacturers and entities that import FSDs for sale an annual fee not to exceed the costs of research and development, report analysis, storage of prototype devices, and other program infrastructure costs necessary to implement the FSD program. Further, the bill requires certified labs testing FSDs to submit final test reports to the DOJ for devices regardless of whether the device has passed or failed to meet standards, along with a prototype of the FSD.

In addition, this bill creates two new processes for entities wishing to have FSDs listed on the roster of approved devices. The first process allows entities whose devices have been delisted due to failure to pay the annual fee described above to have those devices relisted by paying delinquent fees and taking other specified corrective actions. The second process established by the bill authorizes the DOJ to list an untested device if a model of the device made by the same manufacturer is already listed and the unlisted device differs in only one or more specified features, provided the manufacturer submits specified information regarding the two devices as well as a statement under penalty of perjury that the devices only differ in one or more features indicated. Finally, with regard to FSDs, the bill requires manufacturers to notify the DOJ regarding any recall associated with one of their devices, and authorizes the DOJ to remove any device subject to a recall by the United States Consumer Product Safety Commission or any other state or federal entity.

The new annual charge to manufacturers authorized by the bill, and the related expansion of the DOJ's authority to delist devices for nonpayment of that charge, may lead to compliance challenges with regard to the general FSD requirement. Specifically, given the DOJ's ability to rapidly and independently delist and relist devices due to nonpayment and subsequent corrective action, it is possible if not likely that the roster itself will always be in some state of flux, leading to situations where dealers and purchasers/transferees cannot be sure whether they are in compliance, and may be temporarily out of compliance, rendering them criminally liable, as a violation of the FSD requirement is a misdemeanor.⁵ To avoid this issue, the DOJ will have to maintain a public-facing list that is updated to reflect any recent change. Conversely, the Author and Committee may wish to consider amending the bill to create an exemption to the requirement for any dealer or purchaser/transferee that is out of compliance only because of a recent change in the list, and providing a timeline for the acquisition of a new FSD if the delisted one is not relisted within a certain timeframe.

⁴ This is in keeping with recent legislation to require the serialization of all firearm and firearm precursor parts manufactured and sold in the state (AB 1621, Ch. 76, Stats. of 2022)

⁵ Pen. Code §23645.

3. Self-Reporting of Firearms to DOJ

Existing law requires individuals to report firearm ownership, acquisition and transfer to the DOJ in a host of different situations, including new residents entering the state with a firearm, acquisitions of curios and relics, certain probate transfers and transfers by operation of law, intra-familial firearm transactions. Current law also allows for voluntary reporting of firearm ownership or acquisition. While the forms required to complete these reports are available on the DOJ website with instructions to submit the form by mail to the DOJ, most reporting can be completed through the California Firearms Application Reporting System, or (CFARS).⁶ However, for new residents bringing firearms into the state and transfers of curios or relics by collectors, existing law mandates that reports be delivered to DOJ via prepaid mail or in person.

In 2019, the Legislature passed AB 1009, which, for various reportable firearm transactions, allowed reporting only to be completed via mail or CFARS, and for reports submitted by mail, authorized the DOJ to charge the person making the report a surcharge. However, the Governor vetoed the bill, stating in his veto message: “I believe we should encourage all methods of reporting these transactions. Not all law-abiding gun owners have access to the Internet, and those who submit their forms by mail should not be penalized for doing so.”

This bill allows the following reports to be made either electronically⁷ or by prepaid mail:

- Required reports regarding firearms brought into the state by new residents (also called “personal firearm importers.”).
- Required reports regarding the sale, loan or transfer of a non-handgun curio or relic by licensed collectors.
- Voluntary reports regarding: transfers of a firearm by parties who are not required to conduct a transaction through a licensed dealer (aka “exempt private party transactions”); by individuals not required by law to report the acquisition, ownership, destruction or disposal of a firearm; and by individuals who move out of the state with a firearm

With regard to the voluntary reports the bill requires reporting parties to provide specified information, and creates a misdemeanor for furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any required information. The bill also authorizes the DOJ to establish a fee for the submission of a voluntary report described above and an additional fee for each additional firearm. Given the new fees, possible criminal liability, and breadth of information required in a voluntary report under this bill, it is unclear why anyone would wish to make such a report. Ostensibly, the goal of voluntary reporting is to provide DOJ with a clear and accurate picture of the guns owned by California residents and the flow of guns into and out of the state. However, the extensive voluntary reporting requirements included in this bill seem to be an impediment to achieving that goal, rather than a tool in advancing it.

⁶ [Firearms Reporting & Law Enforcement Release Application | State of California - Department of Justice - Office of the Attorney General](#)

⁷ While this bill does not reference CFARS, presumably that is what the bill intends when it allows for an electronic submission.

4. Related Legislation

Senate Bill 53 (Portantino) prohibits, commencing January 1, 2026, any person from keeping or storing a firearm in a residence owned or controlled by that person unless the firearm is stored in a locked box or safe included on the Department of Justice's (DOJ) list of approved firearms safety devices, except when carried by or under the control of the owner or other lawfully authorized user. SB 53 passed this committee by a vote of 4 to 1, and just passed out of Assembly Public Safety by a vote of 6 to 2. It is currently awaiting hearing in Assembly Appropriations.

5. Argument in Support

According to Giffords:

FSDs are safety tools, including gun locks and safes, designed to lock and prevent unauthorized users from discharging a firearm. Functioning FSDs help prevent gun violence because it is often a failure to use proper secure storage that leads to accidental shootings and mass shootings at schools. From 1966 to 2019, more than 80% of the assailants responsible for K-12 shootings stole their guns from family members, often where no secure storage is implemented. The Department of Justice (DOJ) maintains a roster of laboratory-tested, approved FSDs listed by manufacturer, model name, and model number. However, existing law does not require manufacturers to mark the devices with this same identifying information physically. Accordingly, approximately 75 percent of the over 2,300 devices on the DOJ roster are not marked with make and model information. Because many FSDs look alike, the lack of identifying markers makes it nearly impossible to differentiate an approved model from an ineffective lookalike. More importantly, if a consumer owns an FSD that has been recalled, is defective, or has a warranty issue, they are unable to identify if their particular device is affected, and this may result in the continued use of an unsafe or ineffective FSD.

Although some have expressed concern that the proposed legislation risks raising the cost of FSDs, their concerns are not founded on direct evidence. Under AB 3064, a small fee will be charged to manufacturers to have products inspected and listed by the DOJ as an approved FSD. For context, the DOJ requires a similar fee from gun manufacturers, and it is less than \$200 per approved gun. The fee associated with this program will be significantly less. Importantly, manufacturers have expressed zero concerns about the bill. Finally, AB 3064 will also modernize the existing process for required self-reporting of certain firearms transactions to the DOJ such as interfamilial gifts, probate transfers, purchase of antiques, or importation of personal firearms by new residents. Even though the DOJ's systems can already accept these reports electronically, existing law specifically directs that the reports be submitted to the DOJ on paper forms by mail or delivered in person. For many, that is often more onerous than necessary. Responsible gun owners should not be required to go to the post office to do what they can readily do from the comfort of their own homes. AB 3064 will, sensibly, allow the forms to be submitted electronically, making the process easier and more efficient

6. Argument in Opposition

According to Gun Owners of California:

Unfortunately, this bill will do little to chill the criminal use of firearms nor will it increase the overall safety of the public. Rather, it will force business entities to pay a fee to the state for the simple purposes of having a firearm safety device on the market in California. Further – and more significantly – the bill will place lawful, responsible gun owners in a precarious position of falling outside of the law should one of these devices no longer be on the certified list. The recent amendments regarding voluntary reporting exempted transactions are completely unnecessary and serve no crime preventing purposes.

Finally – the Supreme Court has ruled that mandatory storage of firearms is a violation of the Constitution. As you are no doubt aware, the 2008 *Heller v. Washington DC* decision by SCOTUS made several things abundantly clear: the 2nd Amendment is an **individual** right (as opposed to a collective right). The primary element of the *Heller* ruling was that the federal government could **not** require that firearms be stored and locked in a manner where the gun was not immediately accessible. What's more, *McDonald v. Chicago* further ruled that *states and local governments* cannot require firearms to be similarly locked.

These are clear-cut legal decrees and yet the California Legislature continues to stiff arm rulings they find disagreeable. This is inappropriate and AB 3064 should be opposed. I believe that the scourge of criminal misuse of firearms can be solidly addressed without penalizing the lawful for the misdeeds of the unlawful – it will never have its anticipated resolution.

-- END --