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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 1133                      **Hearing Date:** July 11, 2023  
**Author:** Schiavo  
**Version:** June 29, 2023  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Firearms: concealed carry licenses*

## HISTORY

**Source:** Author

**Prior Legislation:** SB 918 (Portantino, 2022), failed on Assembly Floor  
AB 1096 (Melendez, 2019), failed in Assembly Public Safety  
AB 2103 (Gloria, Ch. 752, Stats. of 2018)  
AB 3026 (Melendez, 2018), failed in Assembly Public Safety  
AB 1394 (Travis Allen, 2018), failed in Assembly Public Safety  
AB 757 (Melendez, 2017), failed in Assembly Public Safety  
AB 1563 (Donnelly, 2014), failed in Assembly Public Safety

**Support:** Unknown

**Opposition:** California State Sheriffs Association

**Assembly Floor Vote:** 55 - 18

## PURPOSE

*The purpose of this bill is to require, effective July 1, 2026, the Department of Justice (DOJ) to develop a standardized curriculum regulating the licensing process to carry a concealed weapon (CCW).*

*Existing law* prohibits the possession of firearms in most public areas, with specified exceptions. (Pen. Code, §§ 25300 et seq.)

*Existing law* exempts persons with CCW licenses from the laws prohibiting possessing a firearm in a public area. (Pen. Code, § 25655.)

*Existing law* states that the sheriff of a county may issue a CCW license upon proof of an applicant's good moral character, good cause for the license, completion of a specified training course, and certain residency requirements. (Pen. Code, § 26150.)

*Existing law* states that the head of a city or county's police department may issue a CCW license upon proof of an applicant's good moral character, good cause for the license, completion of a specified training course, and certain residency requirements. (Pen. Code, § 26155.)

*Existing law* provides that any sheriff or police chief may issue a specified CCW license to one of their peace officers upon proof of an applicant's good moral character, good cause for the license, and proof of peace officer status. The sheriff or police chief may consider the applicant's peace officer status for the purpose of issuing a license. (Pen. Code, § 26170.)

*Existing law* requires every licensing authority issuing CCW licenses to publish and make available written policies summarizing CCW licensing requirements. (Pen. Code, § 26160.)

*Existing law* provides that new CCW applicants must take a course of training accepted by the licensing authority that meets the following minimum criteria:

- Be no less than 8 hours and no more than 16 hours in length;
- Include instruction on firearm safety, firearm handling, shooting technique, and laws regarding permissible use of a firearm; and,
- Live-fire shooting exercises that include demonstration by the applicant of safe handling and shooting proficiency with each firearm the applicant is applying to be licensed for. (Pen. Code, § 26165, subd. (a).)

*Existing law* provides that CCW applicants seeking to renew their license may take a course no less than four hours in length that covers instruction on, among other things, firearm safety, handling, shooting technique, and a live-fire shooting exercise, as specified. (Pen. Code, § 26165, subd. (d).)

*Existing law* states that a CCW licensing authority must create and make publicly available the standards it uses for live-fire shooting exercises. Such standards must include the minimum number of rounds to be fired and the minimum passing scores from specified firing distances. (Pen. Code, § 26165, subd. (b).)

*Existing law* authorizes a CCW licensing authority to require a POST-certified community college course, for a maximum duration of up to 24 hours, if the requirement applies uniformly to all CCW applicants without exception. (Pen. Code, § 26165, subd. (c).)

*Existing law* provides that an applicant shall not be required to pay for any training courses prior to the determination of good cause being made pursuant to existing law. (Pen. Code, § 26165, subd. (e).)

*Existing law* requires that the DOJ develop a standard, uniform CCW license to be used throughout the state and requires that the license bear the licensee's name, occupation, residence, business address, age, height, weight, eye color, hair color, reason for desiring CCW, description of the specific firearm authorized under the CCW license which includes the manufacturer name, serial number, and caliber of the firearm. (Pen. Code, § 26175.)

*Existing law* requires an applicant to submit fingerprints to the DOJ before a CCW license can be issued; however, does not require submission of fingerprints in cases where an applicant has previously applied for a CCW license, or if a current licensee has previously forwarded their fingerprints to the DOJ. (Pen. Code, § 26185.)

*Existing law* requires a licensing authority to report to the DOJ the reasons for issuing, revoking, denying, modifying or denying a modification to a CCW license, and requires the DOJ to record and tabulate such information by county and licensing authority. (Pen. Code, § 26225.)

*Existing law* provides that a CCW license can be valid for any period of time not exceeding two years from the date of the license for most individuals. (Pen. Code, § 26220.)

*This bill* requires the Department of Justice (DOJ) to develop, evaluate, update, maintain and publish standardized curricula for original-issue and renewal-issue instruction for a license to carry a concealable firearm, and shall develop, evaluate, update, maintain, and publish, where appropriate, test questions, written examinations, and testing formats for use in evaluating applicant class performance.

*This bill* requires the DOJ to develop and maintain a library of standardized test questions, which shall be used to populate standardized tests to be taken by applicants, such that many possible combinations of test questions are available for each written examination.

*This bill* requires the DOJ to develop, evaluate, update, maintain, and publish ethical and professional standards, which all concealed carry instructors certified by the department shall follow in order to remain certified.

*This bill* requires the DOJ to develop, update, maintain, and publish a web portal, accessible to the general public, which shall make available, at no cost, downloadable-format documents containing a concealed carry knowledge handbook, other informational materials, sample test questions, and the ethical and professional standards applying to concealed carry instructors certified by the department.

*This bill* provides that any resident of California making an application to carry a concealed firearm shall register on the state-maintained web portal described above, and shall take a written examination offered and administered by the web portal.

*This bill* provides that the written examination described above shall consist of no fewer than 30 questions, and no more than 50 questions, and shall be automatically scored on the web portal, with that score immediately being made available to the applicant and the applicant's certified instructor.

*This bill* establishes the following regarding the required CCW examination:

- A passing score of the written examination shall be no less than 80 percent correct answers of all questions on the examination.
- If the applicant fails the written examination, the applicant may retake the examination a maximum of one more time within a 30-day period.
- If the applicant fails the examination two times within a 30-day period, the applicant shall wait 60 days from the time of the last attempt at passing the examination to retake the examination a third time.

- Each subsequent failure shall require an additional 60-day waiting period between retaking written examinations.
- If an applicant fails the examination four times within one year following their first attempt, the applicant shall wait until one year following their first attempt before taking the examination again.

*This bill* requires applicants taking the written examination to pay a reasonable fee to the DOJ, and provides that funds collected from these fees shall be used, upon appropriation by the Legislature, in the service, maintenance, and administration of the web portal described above.

*This bill* requires each concealed carry instructor certified by the department to keep and maintain records, for a period of no less than 5 years, of each applicant who has received instruction from the certified instructor, which must include the following information:

- The applicant's identity
- California driver's license number
- Date of birth
- Residential address
- Address where firearms are registered
- Type of class taken
- Whether the CCW is original-issue, renewal-issue, or other training was offered
- The make, model, and serial number of each firearm the applicant intended to apply to their permit
- The applicant's written test score
- The applicant's range qualification score
- Whether the certified instructor issued a certificate of completion to the applicant.

*This bill* provides that each concealed carry instructor certified by the department shall, for each applicant who receives a certificate of completion for any class taken by the certified instructor, provide a sworn statement verifying that the applicant has successfully met the curriculum requirements, successfully passed the written examination, and successfully passed the range qualification. The sworn statement shall be signed by the certified instructor, and shall be made part of the certificate of completion.

*This bill* provides that any instructor knowingly or willingly making a false sworn statement is punishable by an infraction, and if the above requirements are not met, the instructor may be subject to revocation of their certification.

*This bill* provides that each original-issue and renewal-issue applicant shall submit to their issuing agency, upon application for a permit, a certificate of completion bearing a sworn written statement from the concealed carry instructor certified by the department, bearing the instructor's signature, stating that the applicant has successfully passed the written examination and successfully passed the range qualification. The application to the issuing agency shall include a receipt and test score from the state-maintained web portal where the applicant took the written examination.

*This bill* provides that each issuing authority shall retain an electronic or paper copy of the applicant's certificate of completion, for a minimum of five years.

*This bill* provides that each issuing authority shall direct and refer all applicants only to those concealed carry instructors certified by the department meeting the ethical and professional standards as determined by the department, and who provide, at a minimum, the entire standardized curriculum and written examination, as determined by the department.

*This bill* removes the requirement that CCW licensing authorities publish for the general public, the standards for the required live fire shooting exercises.

*This bill* removes the authorization CCW licensing authorities have to require, as part of process for obtaining a CCW license, a community college course certified by the Commission on Peace Officer Standards and Training (POST).

*This bill* removes the exemption for certified CCW course instructors had from needing to take a CCW course in order to obtain a CCW license renewal.

*This bill* provides that its provisions shall become operative July 1, 2026.

## COMMENTS

### 1. Need for This Bill

According to the author:

Mass shootings have become a common occurrence in this country. It is beneficial to our public's safety to have less firearms on the streets. AB 1133 will better educate those who want to carry in public and keep our community safer from the unaware. I am proud to champion this bill for it is a small stepping stone, on a bigger path, to a safer California.

### 2. Existing Concealed Carry Requirements and Effect of This Bill

Existing law generally prohibits a person from carrying a loaded, concealed firearm in public unless the person has been issued a license to carry a concealed weapon, also known as a "CCW." Prior to June 23, 2022, when the United States Supreme Court issued a landmark decision regarding state CCW regulations (discussed further below), California was one of 7 "may-issue" jurisdictions, giving local law enforcement agencies responsible for issuing CCWs relatively broad discretion in doing so based on whether an applicant showed "good cause" for needing such a license. Although the "good cause" requirement is no longer permissible under the Second Amendment, California law provides that CCWs may only be issued if the licensing authority finds the following additional requirements have been met: 1) the applicant is of good moral character, and, after a background check, is not prohibited by state or federal law from possessing, purchasing or owning a firearm; 2) the applicant meets specified residency requirements; 3) the applicant has completed a firearms training course.<sup>1</sup> For new license applicants, the training course, at a minimum, must be no less than 8 hours but no more than 16 hours, must include instruction on specified topics related to firearm safety, handling and technique, and must include live-fire shooting exercises and a demonstration by the applicant of safe handling and proficiency with each firearm the applicant is being licensed to carry.<sup>2</sup> For

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<sup>1</sup> Penal Code §§26150, 26155, generally.

<sup>2</sup> Penal Code §26165(a).

license renewal applicants, the course only needs to be 4 hours, but still must include the other components listed above for new applicant trainings. Beyond these minimum standards, firearm trainings prerequisite to obtaining a CCW are not subject to any other guidelines or benchmarks under state law.

This bill seeks to enact more rigorous standards for CCW training courses by requiring DOJ to 1) establish a statewide standardized curricula for these courses, 2) develop ethical and professional standards by which all CCW training instructors must abide, and 3) develop and maintain a web portal that will be used to publish CCW materials and administer newly required CCW examinations. Centrally, the bill requires any resident of California applying for a CCW to register on the web portal and take a written examination containing between 30 and 50 questions, on which a passing score is answering 80% or more of the questions correctly. In addition, the bill requires CCW instructors to maintain specified information regarding applicants and issue sworn statement verifying that an applicant has successfully met the curriculum requirements, successfully passed the written exam, and successfully passed the range qualification.

Several provisions of this bill refer to “concealed carry instructors certified by the department [DOJ].” While the DOJ does have a Certified Instructor program, certifications issued under that program are primarily required only for trainings and exams required to obtain a firearm safety certificate (FSC), a prerequisite of a firearm purchase. However, existing law does not require that CCW trainings – which existing law specifies are generally “any course acceptable to the licensing authority” that meets the enumerated minimum standards – be administered by DOJ-certified instructors. This bill appears to impose that requirement, but does not contain language that clearly does so. One provision of the bill requires issuing authorities to “direct and refer all applicants *only* [emphasis added] to those concealed carry instructors certified by the department [...],” but it is still unclear whether, under the bill, CCWs may only be issued if the applicant has completed a training course administered by a DOJ-certified instructor. Additionally, the bill is unclear as to whether a “concealed carry instructor certified by the department” is the same as an instructor certified by the DOJ to issue an FSC. The Author and Committee may wish to consider amending the bill to clarify these issues.

### 3. *NYSRPA v. Bruen*

On June 23, 2022, the United States Supreme Court issued its ruling in *New York State Rifle and Pistol Association v. Bruen*, (2022) 597 U.S. \_\_\_, concerning the constitutionality of a New York State law requiring applicants for a license to carry a concealed pistol on their person to show “proper cause,” or a special need distinguishable from the general public, as well as good moral character, when applying for license.<sup>3</sup> The plaintiffs, seeking to make the issuance of concealed carry permits no longer discretionary, argued that good moral character coupled with a simple desire to exercise a fundamental right should be sufficient to receive a permit. However, the New York law at issue, considered a “may-issue” public carry law and referenced above, gives the appropriate licensing authority significant discretion in approving or denying an application for a permit if they determine that the reason given for carry the weapon does not amount to “proper cause.”<sup>4</sup> New York’s law was upheld in federal court in the Northern District of New York and

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<sup>3</sup> The case is also cited at 142 S.Ct. 2111 (2022).

<sup>4</sup> New York was one of 8 states that, until the decision in *Bruen*, was considered a “may issue” jurisdiction. Other states that require a permit are known as “shall issue” states, and either provide the issuing authority with some limited amount of discretion to deny permits if the applicant exhibits public

in the Second Circuit Court of Appeal. The plaintiffs appealed and the Supreme Court granted certiorari on the limited question of whether the state’s denial of their applications for concealed-carry licenses for self-defense violated the Second Amendment.

In a 6-3 decision along ideological lines, the Supreme Court ruled that the New York law’s “proper cause” requirement was an unconstitutional violation of the Second Amendment. The Court held that the “Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home,” effectively establishing a constitutional right to publicly carry a firearm under the Second Amendment.<sup>5</sup> In his concurring opinion, Justice Kavanaugh underscored the fact that the 43 states that employ “shall-issue” CCW regimes impose objective licensing requirements, such as background checks, mental health records checks, and training in firearms handling and in laws regarding use of force, all of which comport with the Court’s decision. Further, he noted that “the 6 states including New York potentially affected by today’s decision may continue to require licenses for carrying handguns for self-defense so long as those States employ objective licensing requirements like those used by the 43 shall issue States.”<sup>6</sup>

In reaching its decision, the Court also recognized that California is among the limited number of states that have an analogue to New York’s “proper cause” standard in their concealed carry laws.<sup>7</sup> On June 24, 2022, the Attorney General issued a “Legal Alert,” expressing his view that the Court’s decision renders California’s “good cause” standard to secure a permit to carry a concealed weapon in most public places unconstitutional and unenforceable.<sup>8</sup> Accordingly, the Attorney General directed issuing authorities to cease requiring proof of good cause for the issuance of a public carry license, but made clear that they should continue to apply and enforce all other aspects of California law with respect to public-carry licenses and the carrying of firearms in public, including the requirement that the applicant has completed a course of training, as specified.<sup>9</sup>

#### **4. Related Legislation – Senate Bill 2 (Portantino)**

Senate Bill 2 (Portantino), currently pending in the Assembly Appropriations Committee and sponsored by the Governor and the Department of Justice, significantly restructures California concealed carry law in an effort to bring it into alignment with the *Bruen* decision. Of particular relevance to this bill, SB 2 makes certain changes to CCW training requirements, including requiring that the course be at least 16 hours in length, expanding the scope of topics that the course must cover, and including a in the course a mandatory 1-hour mental health component. Similar to this bill, SB 2 requires that the courses must be taught by DOJ-certified instructors and that applicants must pass a written examination prior to fulfilling the CCW training requirement. Critically, the provisions of SB 2 go into effect January 1, 2025, while recent amendments to this bill delay its implementation until July 1, 2026. Given that they amend the same Penal Code section, these bills present a chaptering issue, but their substantive provisions are not incongruous. The Author of this bill may wish to consider working with Senator Portantino on

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safety concerns, or with no discretion, and require the issuance of the permit if the applicant meets minimum qualifications.

<sup>5</sup> *Bruen*, 142 S. Ct. at 2122.

<sup>6</sup> *Id.* at 2162.

<sup>7</sup> *Id.* at 2123-2124

<sup>8</sup> The Legal Alert can be found here: <https://oag.ca.gov/system/files/media/legal-alert-oag-2022-02.pdf>

<sup>9</sup> *Ibid.*

amendments allowing both bills to be enacted on a similar timeline without any implementation conflicts.

## 5. Argument in Opposition

According to the California State Sheriffs Association:

This bill is a solution in search of a problem. Existing law sets minimum lengths for CCW courses (not less than eight hours, but shall not be required to exceed 16 hours in length); requires courses to include instruction on firearm safety, firearm handling, shooting technique, and laws regarding the permissible use of a firearm; and requires the course to include live-fire shooting exercises on a firing range and to include a demonstration by the applicant of safe handling of, and shooting proficiency with, each firearm that the applicant is applying to be licensed to carry. Existing law also requires a licensing authority to establish, and make available to the public, the standards it uses when issuing licenses with regards to the required live-fire shooting exercises, including, but not limited to, a minimum number of rounds to be fired and minimum passing scores from specified firing distances.

We have not been made aware of any issues that necessitate this bill. Statute already establishes a fairly standard set of criteria, and we are not familiar with any indication that the existing training requirements are resulting in poorly trained licensees or incidents that result from insufficient training. We believe this bill will be overly burdensome toward little discernible benefit, while creating costs and workload for DOJ for which they are unlikely to be funded.

-- END --