
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2382 **Hearing Date:** June 26, 2018
Author: Gipson
Version: June 18, 2018
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Firearms: Firearm Precursor Parts*

HISTORY

Source: Author

Prior Legislation: AB 1673 (Gipson), 2016, vetoed
AB 857 (Cooper), Ch. 60, Stats. of 2016

Support: American Academy of Pediatrics; Bay Area Student Activists; California Chapters of the Brady Campaign; City of Santa Monica

Opposition: California Rifle and Pistol Association; California Sportsman's Lobby; Firearms Policy Coalition; Gun Owners of California; National Rifle and Pistol Association of America; National Shooting Sports Foundation; Outdoor Sportsmen's Coalition of California; Safari Club International; one private individual

Assembly Floor Vote: 45 - 29

PURPOSE

The purpose of this bill is to authorize the Department of Justice (DOJ) to issue firearm precursor parts vendor licenses, and requires any person purchasing firearm precursor parts to undergo a background check.

Existing law requires licensed importers and licensed manufacturers to identify each firearm imported or manufactured by using the serial number engraved or cast on the receiver or frame of the weapon, in such manner as prescribed by the Attorney General (AG). (18 U.S.C. § 923, subd. (i).)

Existing law specifies that the United States Undetectable Firearms Act of 1988 makes it illegal to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not as detectable by walk-through metal detection as a security exemplar containing 3.7 oz. of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. (18 U.S.C. § 922, subd. (p).)

Existing law prohibits a person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code from manufacturing firearms in California, unless the person, firm or corporation is also licensed under California law (Penal Code Section 29010). This prohibition does not apply to a person

licensed under federal law, who manufactures less than 100 firearms a calendar year. (Pen. Code, § 29010, subd. (b).)

Existing law makes it illegal to change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol, revolver, or any other firearm, without first having secured written permission from the Department of Justice (DOJ) to make that change, alteration, or removal. (Pen. Code, § 23900.)

Existing law allows the DOJ, upon request, to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification, or a distinguishing number or mark assigned by the department has been destroyed or obliterated. (Pen. Code, § 23910.)

Existing law makes it a misdemeanor, with limited enumerated exceptions, for any person to buy, receive, dispose of, sell, offer to sell or have possession any pistol, revolver, or other firearm that has had the name of the maker or model, or the manufacturer's number or other mark of identification changed, altered, removed, or obliterated. (Pen. Code, §§ 23920 & 23925.)

Existing law requires a person be at least 18 years of age to purchase a rifle or shotgun. To purchase a handgun, a person must be at least 21 years of age. As part of the Dealer Record of Sale (DROS) process, the purchaser must present "clear evidence of identity and age" which is defined as a valid, non-expired California Driver's License or Identification Card issued by the Department of Motor Vehicles. (Pen. Code, § 26840.)

Existing law requires purchasers to present a handgun safety certificate prior to the submission of DROS information for a handgun or provide the dealer with proof of exemption pursuant to California Penal Code Section 31700. Beginning on January 1, 2015, this requirement will be extended to all firearms. (Pen. Code, §26840.)

Existing law requires that firearms dealers obtain certain identifying information from firearms purchasers and forward that information, via electronic transfer to the DOJ to perform a background check on the purchaser to determine whether he or she is prohibited from possessing a firearm. (Pen. Code, §§ 28160-28220.)

Existing law requires firearms to be centrally registered at the time of transfer or sale by way of transfer forms centrally compiled by the DOJ. The DOJ is required to keep a registry from data sent to the DOJ indicating who owns what firearm by make, model, and serial number and the date thereof. (Pen. Code, §11106, subds. (a) & (c).)

Existing law requires that, upon receipt of the purchaser's information, the DOJ shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Welfare and Institutions Code Section 8104, in order to determine if the purchaser is prohibited from purchasing a firearm because of a prior felony conviction or because they had previously purchased a handgun within the last 30 days, or because they had received inpatient treatment for a mental health disorder, as specified. (Pen. Code, §28220.)

Existing law allows the DOJ to require the dealer to charge each firearm purchaser a fee not to exceed \$14, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. This fee, known as the Dealer's Record of Sale Entry System (DROS or DROS fee),

shall be no more than is necessary to fund specific codified costs. (Pen. Code § 28225.)

Existing law provides the AG shall establish and maintain an online database to be known as the Prohibited Armed Persons File. The purpose of the file is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. (Pen. Code § 30000.)

This bill provides that commencing July 1, 2023, "firearm precursor part" means a component of a firearm that is generally necessary to build or assemble a firearm as follows:

- 1) A firearm barrel;
- 2) An ammunition feeding device, including, but not limited to, a magazine or speed loader;
- 3) An unfinished receiver, including both a single part receiver and a multiple part receiver, such as a receiver in an AR-10- or AR-15-style firearm. An unfinished receiver includes a receiver tube, a molded or shaped polymer frame or receiver, a metallic casting, a metallic forging, and a receiver flat, such as a Kalashnikov-style weapons system, Kalashnikov-style receiver channel, or a Browning-style receiver side plate;
- 4) A finished upper receiver for a multiple part receiver system such as an AR-10- and AR-15-style firearm;
- 5) An unfinished handgun frame;
- 6) A finished slide to be used to enclose a handgun barrel; and,
- 7) A trigger pack or fire control group for a Heckler and Koch- or FN FAL-style firearm.

This bill states that effective July 1, 2023, "firearm precursor part vendor "means any person, firm, corporation, dealer, or any other business that has a current ammunition vendor license, as specified.

This bill provides that commencing January 1, 2022, a licensed firearms dealer and a licensed ammunition vendor shall automatically be deemed a licensed firearm precursor parts vendor, if the dealer and licensed ammunition vendor comply with specified requirements.

This bill adds the misdemeanor offenses of possession of ammunition by a prohibited person, and possession of a firearms precursor part by a prohibited person to the list of misdemeanor offenses which upon conviction results in a 10 year prohibition from owning, purchasing, receiving, possessing, or having under custody or control a firearm which is punishable by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, two, or three years.

This bill provides that a person, corporation, or dealer that does any of the following shall be punished by imprisonment in county jail for a term not to exceed one year, or by a fine not to exceed \$1,000, or by both the imprisonment and fine:

- 1) Sells a firearm precursor part to a person under 21 years of age; or
- 2) Supplies, delivers, sells, or gives possession of a firearm precursor part to a minor who the person, corporation or dealer knows or using reasonable care should know is a person prohibited from possessing a firearm or ammunition, as specified, and proof that a person, corporation, or dealer, or his or her agent or employee demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to

any criminal prosecution for providing a firearm precursor part to a person under 21 years of age.

This bill provides that a person prohibited from owning or possessing a firearm shall not own or possess, or have under his custody or control a firearm precursor part and a violation is punishable by imprisonment in a county jail not to exceed one year or in the state prison for 16 months, two, or three years.

This bill states that a person who is not prohibited from owning, possessing, or having under his custody or control a firearm precursor part and is the subject to a gang injunction as a person that is a member of a criminal street gang may not own, possess, or have under the person's custody or control a firearm precursor part and a violation is a misdemeanor punishable by imprisonment in county jail for a term not to exceed one year, or by a fine not to exceed \$1,000, or by both the imprisonment and fine.

This bill provides that the crime of being a prohibited person in possession of a firearm precursor part is justifiable where all of the following conditions are met:

- 1) The person found a firearm precursor part or took the firearm precursor part from a person who was committing a crime against the person who found or took the firearm precursor part;
- 2) The person possessed the firearm precursor part no longer than was necessary to deliver the firearm precursor part no longer than was necessary to deliver the firearm precursor part to a law enforcement agency for that agencies disposition according to law; and,
- 3) The person is prohibited from possessing any precursor firearm part solely because the person is prohibited from owning or possessing a firearm by virtue of a felony conviction or the person is the subject of an injunction as the person is a member of a criminal street gang.

This bill states that upon the trial for being a prohibited person in possession of a firearm precursor par, the trier of fact shall determine if the defendant is eligible for the justifiability exemption. The defendant has the burden of proving by a preponderance of the evidence that the defendant is within the scope of the justifiability exemption.

This bill provides that any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of a firearm precursor part to a person who the person, corporation, firm, or other business enterprise knows or using reasonable care should know is prohibited from owning, possessing or having under custody and control is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

This bill states that any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of a firearm precursor part to a person who the person, corporation, firm, or other business enterprise knows or has cause to believe is not the actual purchaser or transferee or has cause to believe is not the actual purchaser or transferee of the firearm precursor part, with knowledge or cause to believe that the firearm precursor part is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control a firearms precursor part is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

This bill provides that unless it is with written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, a person shall not carry a firearm precursor part onto school grounds, except sworn law enforcement officers acting within the scope of their duties, and the following are exempt from this prohibition:

- 1) A duly appointed peace officer;
- 2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California;
- 3) Any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer;
- 4) A member of the military forces of this state or of the United States who is engaged in the performance of his or her duties;
- 5) An armored vehicle guard, engaged in the performance of his or her duties, as specified;
- 6) An honorably retired peace officer who, during the course or scope of his or her appointment as a peace officer, was authorized to carry a concealed or loaded firearm; and ,,
- 7) A person carrying a firearm precursor part onto school grounds that is in a motor vehicle at all times and is within a locked container or within the locked trunk of the vehicle.

This bill states that a violation of the prohibition against carrying a firearm precursor part onto school ground is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed \$1,000, or by both imprisonment and fine.

This bill provides that commencing July 1, 2023, the sale of a firearm precursor part by any party shall be conducted or processed through a licensed firearm precursor part vendor, and when neither party to a firearm precursor part sale is a licensed firearm precursor part vendor, the seller shall deliver the part to a vendor to process the transaction. The firearm precursor part vendor shall promptly and properly deliver the firearm precursor part to the purchaser, if the sale is not prohibited, as if the firearm precursor part were the vendor's own merchandise. If the firearm precursor part vendor cannot legally deliver the firearm precursor part to the purchaser, the vendor shall forthwith return the firearm precursor part to the seller after the seller has their background checked by the department. The firearm precursor part vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.

This bill states that commencing July 1, 2023, the sale, delivery, or transfer of a firearm precursor part may only occur in a face-to-face transaction with the seller, deliverer, or transferor, provided, however, that a firearm precursor part may be purchased over the Internet or through other means of remote ordering if a licensed firearm precursor part vendor initially receives the firearm precursor part and processes the transfer as required by law.

This bill exempts the following entities from the requirement that the sale, delivery, or transfer of a firearm precursor part shall be conducted or processed through a licensed firearms precursor part vendor:

- 1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the firearm precursor part, written authorization from the head of the agency employing the purchaser or transferee is obtained,

identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual;

- 2) A sworn peace officer, as specified, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties;
- 3) An importer or manufacturer of ammunition or firearms who is federally licensed to engage in business;
- 4) A person on the centralized list of exempted federal firearms licensees maintained by the California Department of Justice (DOJ);
- 5) A person whose licensed premises are outside the state, and the person is federally licensed as a dealer or collector of firearms;
- 6) A person who is a federally licensed as a collector of firearms whose licensed premises are within the state and who has a current Certificate of Eligibility (COE) issued by DOJ; and,
- 7) A firearm precursor part vendor.

This bill requires the sale, delivery, or transfer of a firearm precursor part be conducted or processed through a licensed firearm precursor part vendor and a violation is a misdemeanor punishable by imprisonment in a county jail for a term of imprisonment not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and fine.

This bill provides that commencing July 1, 2023, a resident of this state shall not bring or transport into this state a firearm precursor part that he or she purchased or otherwise obtained from outside this state unless he or she first has that firearm precursor part delivered to a firearm precursor part vendor in this state for delivery to the resident, as specified.

This bill exempts the following entities from the prohibition against bringing or transporting a firearm precursor part into this state from outside the state:

- 1) A firearm precursor part vendor;
- 2) A sworn peace officer, as specified, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties;
- 3) An importer or manufacturer of ammunition or firearms who is federally licensed to engage in business;
- 4) A person on the centralized list of exempted federal firearms licensees maintained by the California Department of Justice (DOJ); and,
- 5) A person who is a federally licensed as a collector of firearms, whose licensed premises are within the state, and who has a current COE.

This bill prohibits a resident of this state may from bringing or transporting a firearm precursor part into the state from outside the state and a violation is a misdemeanor punishable by imprisonment in a county jail for a term of imprisonment not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and fine.

This bill states that this entire article shall not apply to the branches of the United States Military, while on duty and acting in the course and scope of employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued by the DOJ.

This bill provides that commencing January 1, 2023, a valid firearm precursor part vendor license shall be required for any person, firm or corporation, or other business enterprise to sell more than one firearm precursor part in any 30-day period, and a violation is a misdemeanor

punishable by imprisonment in a county jail for a term of imprisonment not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and fine.

This bill states that a firearm precursor part vendor to not allow any agent or employee who handles, sells, delivers, or has under his or her custody and control any firearm precursor part unless that person has obtained a COE from the DOJ, as specified.

This bill states that a vendor shall not permit an employee who the vendors knows or reasonably should know is a person that is prohibited from purchasing or owning a firearm to handle, sell or deliver ammunition in the course and scope of employment.

This bill requires that the sale of a firearm precursor part by a licensed vendor shall be conducted at the location specified in the license, but a vendor may sell firearm precursor parts may be sold at a gun show or event is the gun show or event is not conducted from any motorized or towed vehicle.

This bill provides that a firearm precursor part vendor shall not sell or otherwise transfer ownership of, offer for sale, or otherwise offer to transfer ownership of, display for sale, or display for transfer any firearm precursor part in a manner that allows a firearm precursor part to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

This bill provides that commencing July 1, 2023, a firearm precursor part vendor shall not sell or otherwise transfer ownership of any firearm precursor part without, at the time of delivery, legibly recording the following information:

- 1) The purchaser's full name;
- 2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued;
- 3) The date of the sale or other transaction;
- 4) The brand, type, and amount of firearm precursor parts sold or otherwise transferred;
- 5) The name of the salesperson who processed the sale or other transaction;
- 6) The purchaser's or transferee's full residential address and telephone number; and,
- 7) The purchaser's or transferee's date of birth.

This bill states that commencing July 1, 2022, the vendor shall electronically submit to the DOJ firearm precursor part purchase information in a format and a manner prescribed by the department for all sales or other transfers of ammunition. The department shall retain this information in a database to be known as the Firearm Precursor Parts Purchase Records File. This information shall remain confidential and may be used by the DOJ and specified law enforcement agencies, only, for law enforcement purposes. The vendor shall not share any of the firearm precursor part purchase information for any reason other than for authorized law enforcement purposes.

This bill provides, commencing July 1, 2023 only specified persons shall be authorized to purchase firearm precursor parts. Prior to delivering any firearm precursor part, a firearm precursor part vendor shall require bona fide evidence of identity to that the person who is receiving delivery of the firearm precursor part is not prohibited from possessing a firearm precursor part.

This bill provides, commencing July 1, 2023, a firearm parts vendor shall verify with the DOJ, in a manner prescribed by the DOJ, that the person is authorized to purchase firearm precursor parts. If the person is not listed as an authorized firearm precursor part purchaser, the vendor shall deny the sale or transfer.

This bill states that regulations on the sale or transfer of firearm precursor parts shall not apply to the sales or transfer of firearms precursor parts by a firearm precursor parts vendor to any of the following:

- 1) A firearm precursor part vendor;
- 2) A person on the centralized list of exempted federal firearms licensees maintained by the California Department of Justice (DOJ);
- 3) A gunsmith;
- 4) A wholesaler;
- 5) An importer or manufacturer of ammunition or firearms who is federally licensed to engage in business;
- 6) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the firearm precursor part, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual; and,
- 7) A properly identified sworn peace officer, as specified, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

This bill defines proper identification as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties, and requires that the certification be delivered at the time of purchase or transfer and kept by the vendor with the record of sale and later submitted to DOJ.

This bill specifies that firearm parts that can only be used on antique firearms are not precursor parts.

This bill provides that the records relating to the sale or transfer of firearms precursor parts shall be maintained on the premises of the firearm precursor parts vendor for a period of not less than five years, and requires that a firearm precursor parts vendor report any lost or stolen firearm precursor parts to law enforcement within 48 hours of discovery.

This bill states that commencing July 1, 2023, the DOJ shall electronically approve the purchase or transfer of firearm precursor parts through a vendor, except as otherwise specified. This approval shall occur at the time of purchase or transfer, prior to the purchaser or transferee taking possession of the firearm precursor parts.

This bill authorizes the following persons to purchase firearm precursor parts:

- 1) A purchaser or transferee whose information matches an entry in the Automated Firearms System (AFS), and who is eligible to possess firearm precursor parts, as specified;
- 2) A purchaser or transferee who has a current COE issued by the DOJ; and,

- 3) A purchaser or transferee who is not prohibited from purchasing or possessing firearm precursor parts in a single firearm precursor parts transaction or purchase made through specified procedures.

This bill provides that to determine if the purchaser or transferee is eligible to purchase or possess a firearm precursor part the DOJ shall cross-reference the firearms precursor parts purchaser's or transferee's name, date of birth, current address, and driver's license or other government identification number with the information maintained in the AFS. If the purchaser's or transferee's information does not match an AFS entry, the transaction shall be denied. If the purchaser's or transferee's information matches an AFS entry, the DOJ shall determine if the purchaser or transferee falls within a class of persons who are prohibited from owning or possessing firearms precursor parts by cross-referencing the Armed Prohibited Persons (APPS) File. If the purchaser or transferee is prohibited from owning or possessing a firearm, the transaction shall be denied.

This bill prohibits a vendor from providing a purchaser or transferee a firearm precursor part without DOJ approval. If a vendor cannot electronically verify a person's eligibility to purchase or possess a firearms precursor part via an Internet connection, the DOJ shall provide a phone line to verify eligibility. This option is available to ammunition vendors who can demonstrate legitimate geographical and telecommunications limitations in submitting the information electronically, and who are approved by the DOJ to use the phone line verification.

This bill allows the DOJ shall recover the reasonable cost of regulatory and enforcement activities related to this article by charging firearm precursor parts purchasers and transferees a per-transaction fee not to exceed one dollar (\$1), provided, however, that the fees may be increased at a rate not to exceed any increases in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations, not to exceed the reasonable regulatory and enforcement costs. The fees shall be deposited in the Firearm Precursor Parts Special Fund, and are continuously appropriated for the purpose of implementing, operating, and enforcing the firearms precursor parts authorization program, and for repaying the startup loan.

This bill provides that upon appropriation by the Legislature, a loan of six million dollars (\$6,000,000) shall be made from the General Fund for the startup costs of implementing, operating, and enforcing the provisions of the firearm precursor parts authorization program.

This bill authorizes the DOJ to issue firearm precursor parts vendor licenses pursuant to this article. The department shall, commencing January 1, 2022 accept applications for firearm precursor parts vendor licenses. If the application is denied, the department shall inform the applicant of the reason for denial in writing. The annual fee shall be paid on January 1, or the next business day, of every year.

This bill allows the DOJ to charge firearm precursor parts vendor license applicants a reasonable fee sufficient to reimburse the DOJ for the reasonable estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of firearm precursor parts vendors, and requires that the fees be deposited in the Firearm Precursor Parts Special Account. The revenue in the fund is continuously appropriated for use by the DOJ for the purpose of implementing, administering and enforcing the provisions of the firearm precursor parts program and for collecting and maintaining firearm precursor parts sale or transfer records information.

This bill provides that the DOJ is authorized to issue firearm precursor parts vendor licenses to applicants who the DOJ has determined, either as an individual or a responsible, are not prohibited from possessing, receiving, owning or purchasing a firearm or firearm precursor parts, as specified.

This bill authorizes the DOJ to keep a registry of all licensed firearm precursor parts vendors. Law enforcement shall be provided access to the registry for law enforcement purposes.

This bill states that a firearm precursor parts vendor license is subject to forfeiture for a breach of any of the prohibitions or requirement of the firearm precursor parts authorization program.

COMMENTS

1. Need for This Bill

According to the author of this bill:

Ghost guns are a very real issue in the communities I represent as well as across the state. Not too long ago there was a shooting in Rancho Tehama in Northern California where a man murdered 5 people including his wife with a ghost gun. This man was prohibited from purchasing a firearm so he took to the internet to buy parts to build his own gun. This shooting could have easily been prevented if AB 2382 was already enacted because he wouldn't have passed the background check to purchase precursors to a firearm. AB 2382 is a necessary step forward in ensuring guns stay out of the hands of criminals and those who otherwise are unfit, without prohibiting or limiting the purchase of firearms to law bidding citizens.

AB 2382 seeks to require background checks for "firearm precursor parts" by defining components of a firearm that are generally necessary to build or assemble certain firearms. Current law requires background checks for both gun sales and ammunition, yet is silent on the treatment of firearm precursors. This bill will also create a new licensing structure for those who only sell firearm precursor parts and will extend the allowance to all licensed firearms and ammunition dealers.

2. Governor's Veto Message of AB 1673 (Gipson)

AB 1673 (Gipson), of the 2015-2016 Legislative Session, expanded the definition of "firearm" to include the frame or receiver of the weapon or a frame or receiver "blank," "casting" or "machined body" that is designed and clearly identifiable as a component of a functional weapon. AB 1673 was vetoed by the Governor. The Governor in his veto message stated, "I am returning AB 1673 without my signature. This bill seeks to stem tide of untraceable homemade firearms on our streets. While I appreciate the author's intent the actual wording of the unduly vague and could have far reaching unintended consequences. By defining certain metal parts as a firearm because they could ultimately be made into a homemade weapon, this bill could trigger potential application of myriad and serious criminal penalties."

As far as potential application of myriad and serious penalties, the same could be said of this bill times ten.

3. Firearm Parts and Lower Receivers

There are no provisions in existing California law that prevent a person from buying an 80% lower receiver and then making it into a fully functional firearm. As discussed above, the governor vetoed previous legislation to expand the definition of a firearm to include these devices. According to Tactical Machining, “An 80% Receiver is a partially completed piece of material that requires special tooling and skills to be completed and considered a firearm.”¹

Because 80% lower receivers are not considered firearms, a person purchasing them does not have to go through a federal firearms dealer, and does not have to undergo a background check. Additionally, according to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) “firearms that began as receiver blanks have been recovered after shooting incidents, from gang members and from prohibited people after they have been used to commit crimes.”² “ATF successfully traces crime guns to the first retail purchaser in most instances. ATF starts with the manufacturer and goes through the entire chain of distribution to find who first bought the firearm from a licensed dealer. Because receiver blanks do not have markings or serial numbers, when firearms made from such receiver blanks are found at a crime scene, it is usually not possible to trace the firearm or determine its history, which hinders crime gun investigations jeopardizing public safety.”³

This bill takes a different approach to regulating these firearm components from AB 1673 by authorizing the DOJ to issue firearm precursor parts vendor licenses, and requiring any person purchasing firearm precursor parts to undergo a background check.

4. Adding Offenses to the 10-Year Ban Creates New Misdemeanor Offenses

This bill adds to the list of misdemeanors, the conviction for which is subject to the prohibition on possessing a firearm within 10 years of the conviction, the possession of ammunition and firearm precursor parts by an individual who is prohibited from possessing ammunition or firearm precursor parts. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

5. Argument in Support

According to the California Chapters of the Brady Campaign:

The California Chapters of the Brady Campaign to Prevent Gun Violence is a grassroots organization working to reduce firearm crime, injury, and death. There are 28 Brady Chapters throughout the state, many of whose members have lost a loved one to gunfire. In furtherance of our goal to reduce firearm violence in our communities, the California Brady Campaign supports AB 2382 as amended by Assemblymember Mike Gipson. The bill addresses an escalating and alarming development in California that threatens public safety.

¹ (<http://www.tacticalmachining.com/80-lower-receiver.html>.)

² (<https://www.atf.gov/firearms/qa/have-firearms-made-unmarked-receiver-blanks-been-recovered-after-being-used-crime>.)

³ (<https://www.atf.gov/firearms/qa/can-functioning-firearms-made-receiver-blanks-be-traced>.)

A priority policy objective for the California Brady Campaign is to ensure that every firearm owner has passed a background check and that all firearm transfers include a thorough background check, 10-day waiting period, and a record of the transaction that includes the serial number of the firearm. There have been numerous studies indicating that these requirements are good strategies for reducing gun violence and clearly, they further our core goal of keeping weapons out of dangerous hands. Although existing California law requires background checks and the retention of transfer records, people have found that they can circumvent these requirements and other California gun laws by creating and marketing partially complete or “80 percent” lower receivers or frames. According to media reports and law enforcement, there has been a dramatic increase in the number of firearms assembled from partially complete receivers or frames and parts kits and these firearms are increasingly used in crime. A tragic example is the shooting in Tehama County last fall, in which the gunman, who had a firearm prohibition, illegally manufactured the guns he used in the shootings. AB 2382 will help to tackle this problem.

The lower receiver is that part of a long gun that contains the trigger, firing pin, and ammunition feeding mechanisms. Lower receivers are treated the same as a long gun and are currently legally available, provided that the purchaser passes a background check, the lower receiver has a serial number, and a record of the purchase is created. Similarly, a frame for a pistol is treated as a handgun and has a serial number. However, partially complete or “80 percent” lower receivers and frames are not considered to be firearms, but with a few simple modifications, they can become fully functional. A person with a drill press can easily drill the necessary holes to complete the receiver or frame and advances in 3D printing technology are increasing the availability of unfinished lower receivers and frames. Firearms assembled from these partially complete lower receivers and frames and other firearm components are untraceable for law enforcement.

California addressed this problem, in part, with the enactment of AB 857 in 2016, which requires any person who manufactures or assembles a firearm to first apply to the Department of Justice for a unique serial number or other identifying mark that must be permanently engraved or affixed to the firearm. Prior to issuing the serial number, the Department requires the applicant to pass a background check and a record is maintained. Additionally, the bill requires any person who, as of July 1, 2018, owns a firearm that does not bear a serial number to apply to the Department for a unique serial number.

AB 2382 goes further and seeks to prevent the acquisition of partially complete frames or receivers and other firearm components by a prohibited person in the first place. The bill requires the sale of firearm precursor parts, as defined, to be conducted by a licensed firearm precursor parts vendor. Under the bill, the vendor will electronically submit buyer information to the Department so that a background check can be completed by cross-checking existing databases and the purchase approved or denied, similar to the system currently being developed for background checks on ammunition purchasers.

The shooter in the 2013 Santa Monica shooting, in which six people were killed, was prohibited from purchasing firearms. Instead, he machined himself an AR-15-type semiautomatic rifle from an aluminum unfinished lower receiver and acquired other firearm parts. This is an example of why it is essential that partial lower receivers and frames and other firearm precursor parts be regulated. AB 2382 will help keep weapons out of criminal hands.

6. Argument in Opposition

According to the California Rifle and Pistol Association:

AB 2382 requires firearm “precursor” parts to be treated in the same manner as if they were actual firearms, having to be sold only through a dealer and with a mandated background check. This legislation specifically addresses any metal or plastic parts that could be used to repair an existing firearm, or used to assemble one. Parts include such items as a barrel, any type of ammunition feeding device, or things as benign as pins, springs, triggers, hammers or sears. In and of themselves, these parts do not constitute a firearm and therefore should not be treated as such. This bill doesn’t consider the practicality nor the enormity of the task which would be required of the Department of Justice. Their current responsibilities include the tracking of all firearm purchases, the registration of all purchases and purchasers, background checks, and waiting periods. After legislation passed in 2016, DOJ has similar procedures for ammunition purchases. All this while tasked with the staggering and ever growing list of known armed prohibited felons. Should AB 2382 pass, DOJ would thus be tasked with recording a staggering number of transactions as firearms are made of literally dozens of parts.

The mandated part-tracking requirements of AB 2382 opens the door for government cross referencing of items purchased with what firearms might be registered in an individual’s name. This alone is problematic as it could unwittingly make any legitimate and lawful gun owner into a criminal. The California Rifle and Pistol Association will continue to support commonsense gun laws focused on violent criminals who choose to use firearms to break the law. However, this bill will not do that, and instead only complicates the ability of law abiding citizens to obtain parts needed to repair and upgrade lawfully obtained firearms.

The safety of Californians is at the very foundation of our organization, and it has been our consistent goal to work toward common sense solutions regarding the issue of crime and firearm ownership; this can be done, however, without sacrificing our Constitutional rights and the ability of the law abiding to protect their families, hunt, and enjoy competitive shooting events. For the foregoing reasons the California Rifle and Pistol Association stands in strong opposition to AB 2382.