

and Pistol Association v. Bruen. *The bill also corrects a cross reference in the statute establishing the basic ammunition eligibility check fee.*

Existing law establishes various prohibitions and criminal penalties related to the possession of firearms in or around specified government buildings, buildings comprising the Capitol complex in downtown Sacramento, the residences of the Governor and other constitutional officers, airports and other specified public transit facilities. (Pen. Code, §§ 171b, 171c, 171d, 171.5, 171.7.)

Existing law, the Gun Free School Zone Act of 1995, establishes various restrictions and penalties regarding the possession and use of firearms in school zones, as defined. (Pen. Code, §626.9.)

Existing law prohibits a person from carrying a concealed firearm within a vehicle, as specified. (Pen. Code §25400(a).)

Existing law provides that Section 24300 shall not be construed to prohibit any citizen, as specified, from transporting or carrying any firearm capable of being concealed upon the person provided that the firearm is within a motor vehicle and locked in the trunk or in a locked container, or is carried by the person directly to or from any motor vehicle for any lawful purpose, and while carrying the firearm, the firearm is within a locked container. (Pen. Code §25610.)

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

Existing law requires applicants for a CCW to complete a course of training that meets specified criteria. (Pen. Code, §§ 26150(a)(4), 26155(a)(4), 26165.)

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 only under this section of the Penal Code. (Pen. Code, § 26170.)

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 submittal 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 provides that CCW applicants must pay a fee in an amount determined by the Department of Justice, and that the licensing authority of any city, county, or city and county shall impose an additional fee to cover reasonable costs for processing, issuing and enforcing the license. (Pen. Code, §26190(a), (b).)

Existing law permits the local licensing authority to charge an additional \$25 processing fee, and a \$10 fee for any amended license. Another provision authorizes a \$150 fee if psychological testing on the initial application is required by the licensing authority, and requires that the applicant be referred to a licensed psychologist used by the licensing authority for the psychological testing of its own employees. (Pen. Code, §26190(c), (e), (f).)

Existing law specifies the circumstances under which a CCW shall not be issued or shall be revoked by the licensing authority. (Pen. Code, §26195)

Existing law provides that a CCW license may include reasonable restrictions or conditions that the issuing authority deems warranted, and that any restrictions so imposed must be indicated on any license issued. (Pen. Code, §26200).

Existing law provides that a CCW license is valid for any period of time not to exceed two years from the date of the license. (Pen. Code §26220.)

Existing law provides that a licensing authority must report to the DOJ the reasons for issuing, revoking, denying, or denying an amendment to a CCW license, and must submit to the DOJ the total number of licenses issued to peace officers and judges. (Pen. Code, § 26225.)

Existing law provides that persons convicted of specified serious or violent misdemeanors are prohibited from possession of firearms for a period of 10 years and that a violation of that prohibition is punishable as a misdemeanor with imprisonment up to one year or as a state prison felony. (Pen. Code, § 29805 (a).)

Existing law authorizes the Department of Justice (DOJ) to require firearms dealers to charge each firearm purchaser a fee not to exceed \$1, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index. (Pen. Code, § 28225(a).)

Existing law provides that the fee above shall be no more than is necessary to fund specified governmental notification and reporting functions including but not limited to DOJ's cost of furnishing specified firearm information, local mental health facility costs pursuant to firearm reporting requirements, and local law enforcement agency costs related to firearm reporting requirements. (Pen. Code, § 28225(b).)

Existing law authorizes the DOJ to charge firearms dealers a fee not exceeding \$14 for costs associated with the preparation processing, or filing of forms related to the sale, purchase, acquisition, or other type of transfer of firearms. (Pen. Code, § 28230.)

Existing law authorizes the DOJ to require a firearms dealer to charge each firearm purchaser a fee in the amount of thirty-one dollars and nineteen cents (\$31.19), which may be increased at a rate no more than any increase in the California Consumer Price Index. (Pen. Code, § 28233(a), (c).)

Existing law requires that fees collected pursuant to Pen. Code §28233(a) be deposited in the Dealer's Record of Sale (DROS) Supplemental Subaccount within the DROS Special Account of the General Fund, and authorizes the expenditure of those funds by the DOJ to offset the reasonable costs of specified firearms-related regulatory and enforcement activities. (Pen. Code, § 28233(b).)

Existing law provides that, commencing July 1, 2019, the DOJ shall electronically approve the purchase or transfer of ammunition through a vendor, and establishes related guidelines and eligibility criteria. (Pen. Code, § 30370(a), (b).)

Existing law requires the DOJ to develop a procedure by which a person who is not prohibited from purchasing or possessing ammunition may be approved for a single ammunition transaction or purchase. (Pen. Code, § 30370(c).)

Existing law requires the DOJ to recover its costs under Penal Code §30370 by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process, as described in Penal Code Section 28225, and not to exceed the DOJ's reasonable costs. (Pen. Code, § 30370(c).)

This bill sets forth various findings and declarations related to the constitutionality of regulations related to the public carry of firearms and the effect of publicly carrying firearms on public health and the exercise of individual rights.

This bill provides that a justice, judge or commissioner of the court licensed to carry a firearm in public and who possesses the firearm within a building designated for a court proceeding, as specified, is exempt from the prohibition against possessing a firearm within any state or local public building or at any meeting required to be open to the public, as specified.

This bill makes it a crime to bring a firearm, whether loaded or unloaded, upon the grounds of or within the Governor's mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

This bill provides that it is unlawful for any person to knowingly possess any firearm in any building, real property, or parking area under the control of an airport, except as provided.

This bill creates an exemption to the prohibition above for persons possessing an unloaded firearm being transported in accordance with Transportation Security Administration regulations, which require a hard-sided, locked container, so long as the person is not within any sterile area of an airport or a passenger vessel terminal.

This bill provides that it is unlawful for any person to knowingly possess any undetectable firearm, as defined, in a public transit facility.

This bill creates an exemption to the prohibition on carrying firearms in a public transit terminal (Penal Code § 171.7) for persons possessing an unloaded firearm while traveling on a public

transit system that offers checked baggage services, so long as the firearm is stored in accordance with the system's checked baggage policies.

This bill provides that the prohibition against the possession of a firearm in a school zone (the Gun Free School Zone Act of 1995) does not apply when the firearm is an unloaded pistol, revolver or other firearm capable of being concealed on the person and is within a locked container in a motor vehicle or is within the locked trunk of a motor vehicle at all times.

This bill provides that the prohibition against the possession of a firearm in a school zone does not apply when the person holds a valid license to carry the firearm, who is carrying that firearm in an area that is within 1,000 feet from the grounds of the public or private school, but is not within any building, real property, or parking area under the control of the school or on a street or sidewalk immediately adjacent to a building, real property, or parking area under the control of the school.

This bill provides that if any provision in Division 5, Title 4, Part 6 of the Penal Code is for any reason held unconstitutional, that decision does not affect the validity of any other provision in the division, and declares that the Legislature would have passed the provisions listed in that division irrespective of the fact that one or more of them may be declared unconstitutional.

This bill contains a severability clause that applies to all provisions in Division 5, Title 4, Part 6 of the Penal Code.

This bill provides that the prohibition against carrying a concealed firearm in a vehicle (Penal Code

This bill provides that the prohibition against carrying a concealed firearm (Section 25400) shall not be construed to prohibit any citizen from transporting or carrying a concealable firearm for specified purposes, provided that either of the following applies to the firearm: it is unloaded within a motor vehicle and locked in the trunk or in a locked container, or it is unloaded and carried by the person directly to or from any motor vehicle and is in a locked container.

This bill provides that when a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed on the person, the sheriff of a county shall issue or renew a license to that person upon proof that the applicant is not a disqualified person to receive such a license, as provided, is at least 21 years of age and presents clear evidence of identity and age, is the recorded owner of the firearm, has completed a training course, as provided, and is a resident of the county or a city within the county or is employed within the county.

This bill provides that when a person applies for a new license or license renewal to carry a pistol, revolver, or other firearm capable of being concealed on the person, the chief or other head of a municipal police department of any city or city and county shall issue or renew a license to that person upon proof that the applicant is not a disqualified person to receive such a license, as provided, is at least 21 years of age and presents clear evidence of identity and age, is the recorded owner of the firearm, has completed a training course, as provided, and is a resident of the city or city and county.

This bill specifies that, for the purposes of the residency/employment requirements above, prima facie evidence of residency includes but is not limited to, the address where the applicant is

registered to vote, the applicant's filing of a homeowner's property tax exemption, and other acts, occurrences, or events that indicate presence in the county or a city within the county is more than temporary or transient.

This bill provides that the presumption of residency in the county or city within the county may be rebutted by satisfactory evidence that the applicant's primary residence is in another county.

This bill provides that, prior to the issuance of a license, renewal of a license, or amendment to a license, each licensing authority with direct access to the designated Department of Justice system shall determine if the applicant is the recorded owner of the particular pistol, revolver, or other firearm capable of being concealed upon the person reported in the application for a license or the application for the amendment to a license.

This bill provides that an agency with direct access to the designated Department of Justice system shall confirm the applicant's information with firearm ownership maintained in the system, and that an agency without access to the system shall confirm this information with the sheriff of the county in which the agency is located.

This bill provides that, for new license applicants, the required course of training must meet all of the following minimum criteria:

- The course shall be no less than 16 hours in length.
- The course shall include instruction on firearm safety, firearm handling, shooting technique, safe storage, legal methods to transport firearms and securing firearms in vehicles, laws governing where permit holders may carry firearms, laws regarding the permissible use of a firearm, and laws regarding the permissible use of lethal force in self-defense.
- The course shall include a component, no less than one hour in length, on mental health and mental health resources.
- Except for the mental health component, the course shall be taught and supervised by firearms instructors certified by the Department of Justice pursuant to existing law.
- The course shall require students to pass a written examination.
- The course shall include live-fire exercises, as specified.

This bill provides that, for renewal applicants, the required course of training shall be no less than 8 hours and shall satisfy the other minimum criteria above.

This bill provides that any sheriff or police chief may issue a specified CCW license to one of their peace officers upon proof that the applicant is not a disqualified person to receive such a license, is at least 21 years of age, has been deputized or appointed as a peace officer, as specified, and is the recorded owner of the firearm for which the license will be issued, or is authorized to carry a firearm that is registered to the agency for which the licensee has been deputized or appointed to serve as a peace officer.

This bill provides that, upon its effective date, the Attorney General shall issue forms to be used for licenses and applications for amendments to licenses to be used until 60 days after the effective date of the bill.

This bill provides that the committee convened by the Attorney General consisting of a representative from the California State Sheriffs Association, one representative from the California Police Chiefs Association and one representative from the Department of Justice shall revise the standard application form for licenses prescribed by the Attorney General pursuant to existing law. However, if the committee does not release a revised application form by 60 days after the effective date of this bill, the Attorney general has the sole authority to revise the form. After the initial revised application is issued, if one of the committee members concludes that further revisions are necessary, that member shall notify the rest of the members and they shall revise the application within 3 months of that notification. If no new application form is released within that time, the Attorney General has sole authority to revise the standard application form.

This bill sets forth a procedure by which the design standards for licenses issued by local agencies, which may be used as proof of licensure throughout the state, may be issued and revised by a committee composed of specified members.

This bill specifies which information shall be required from the applicant on the standard application form and which information shall appear on the license issued, and specifies which addresses may be used instead of a residence or business address on the application and license.

This bill provides that completed applications for licenses shall contain all information required by the application, as determined by the licensing authority.

This bill specifies which information must be set forth upon a license to carry a concealed firearm as of 60 days after the effective date of the bill. Prior to 60 days after the effective date of the bill, any license shall take the form of the uniform license developed by the Attorney General.

This bill provides that the fingerprints and related information for each applicant shall be taken and forwarded by the appropriate licensing authority to the Department of Justice, which shall make a determination, in a manner to be prescribed through regulations, as to whether the applicant is prohibited from possessing, receiving, owning or purchasing a firearm and furnish this information to the licensing authority. No new license shall be issued unless this information confirms the applicant's eligibility to possess, receive, own or purchase a firearm.

This bill permits the licensing authority of any city, city and county, or county to collect the first 50 percent of an additional processing fee authorized by existing law, equal to reasonable costs incurred by the authority, at the time of the filing of the initial or renewal application.

This bill eliminates the authority for a licensing authority to charge a \$25 processing fee, and sets the fee for an amended license to or the reasonable cost to process the amended license. Additionally, this bill removes the \$150 cap on the fee related to psychological testing and authorizes the licensing authority to charge the reasonable costs of any necessary psychological assessments.

This bill provides that local fees may be increased to reflect increases in the licensing authority's reasonable costs, but in no case shall exceed those reasonable costs.

This bill provides that a license shall be revoked if at any time the licensing authority determines or is notified by the Department of Justice of any of the following:

- A licensee is prohibited by state or federal law from owning or purchasing a firearm.
- A licensee has breached any of the conditions or restrictions set forth in or imposed in accordance with existing law relating to concealed carry licenses.
- Any information provided by a licensee in connection with an application for a new license or renewal is inaccurate or incomplete.
- A licensee is no longer qualified to receive such a license, as determined in accordance with specified standards, as specified.

This bill provides that while carrying a firearm as authorized by a license issued pursuant to its provisions and existing law, a licensee shall not do any of the following:

- Consume an alcoholic beverage or controlled substance, as specified.
- Be in a place having a primary purpose of dispensing alcoholic beverages for onsite consumption.
- Be under the influence of any alcoholic beverage, medication, or controlled substance, as specified.
- Carry a firearm not listed on the license or a firearm for which they are not the recorded owner.
- Falsely represent to a person that the licensee is a peace officer.
- Engage in an unjustified display of a deadly weapon.
- Fail to carry the license on their person.
- Impede a peace officer in the conduct of their activities.
- Refuse to display the license or to provide the firearm to a peace officer upon demand for purposes of inspecting the firearm.
- Violate any federal, state, or local criminal law.

This bill provides that a licensee authorized to carry a firearm pursuant to its provisions and existing law shall not carry more than two firearms under the licensee's control at one time.

This bill provides that unless a court makes a contrary determination, an applicant shall be deemed to be a disqualified person to receive or renew a license if the applicant:

- Is reasonably likely to be a danger to self, others, or the community at large, as provided.

- Has been convicted of contempt of court, as specified.
- Has been subject to a specified restraining order, protective order, or other court order unless that order expired or was cancelled more than 5 years ago.
- Has been convicted of specified offenses within the previous 10 years.
- Has engaged in an unlawful or reckless use, display or brandishing of a firearm.
- In the previous 10 years, has been charged with specified offenses that were dismissed pursuant to a plea or a waiver, as specified.
- In the previous 5 years, has been committed to or incarcerated in county jail or state prison for, or on probation, parole, post-release community supervision, or mandatory supervision, as a result of a conviction of an offense, an element of which involves controlled substances.
- Is currently abusing controlled substances, as specified.
- Within the previous 10 years has experienced the loss or theft of multiple firearms due to the applicant's lack of compliance with applicable laws.
- Failed to report a loss of a firearm as required pursuant to existing law.

This bill provides that in order to determine whether an applicant is a qualified person to receive or renew a license, the licensing authority shall conduct an investigation that meets, but is not limited to, specified minimum requirements.

This bill requires the licensing authority, within 90 days of receiving the initial completed application for a new license or renewal, to give written notice to the applicant, as specified, of the authority's initial determination as to whether the applicant is a disqualified person, and sets forth procedures related to the approval or denial of an application after initial determination.

This bill provides that if a new license or license renewal is denied or revoked based on a determination that the applicant is not a qualified person for such a license, the notice of this determination shall state the reason as to why the determination was made and also inform the applicant that they may request a hearing from a court to review the denial or revocation.

This bill requires the Department of Justice to develop a "Request for Hearing to Challenge Disqualified Person Determination" form, and provides that an applicant shall have 30 days after the receipt of the notice of denial to request a hearing to review the denial or revocation.

This bill provides that an applicant who has requested a hearing per the above shall be given a hearing, and specifies various procedural rules governing these hearings.

This bill specifies that, in the appeal hearings described above, the people shall bear the burden of showing by a preponderance of the evidence that the applicant is not a qualified person, and specifies how the court must rule if the people meet or do not meet their burden.

This bill specifies that none of its provisions prevent a licensing authority from requiring an a person whose application was denied or whose license was revoked to use and exhaust any administrative remedies, including existing internal appeals processes, before filing an appeal with the courts, as specified.

This bill authorizes the DOJ to adopt emergency regulations to implement specified provisions of this bill and existing law.

This bill provides that a person granted a license to carry a pistol, revolver or other firearm capable of being concealed upon the person shall not carry a firearm on or into any of the following:

- A place prohibited by the Gun Free School Zone Act of 1995.
- A building, real property, or parking area under the control of a preschool or childcare facility, as specified.
- A building, parking area, or portion of a building under the control of an officer of the executive or legislative branch of state government, except as provided.
- A building designated for a court proceeding, as specified.
- A building, parking area, or portion of a building under the control of a unit of local government, unless the firearm is being carried for purposes of training pursuant to existing law.
- A building, real property, and parking area under the control of an adult or juvenile detention or correctional institution, prison, or jail.
- A building, real property, and parking area under the control of a public or private hospital or hospital affiliate, mental health facility, nursing home, medical office, urgent care facility, or other place at which medical services are customarily provided.
- A bus, train, or other form of transportation paid for in whole or in part with public funds, and a building, real property, or parking area under the control of a transportation authority supported in whole or in part with public funds.
- A building, real property, and parking area under the control of a vendor or an establishment where intoxicating liquor is sold for consumption on the premises.
- A public gathering or special event conducted on property open to the public that requires the issuance of a permit from a federal, state, or local government, and the sidewalk or street immediately adjacent to the public gathering, as specified.
- A playground or public or private youth center, as defined, and a street or sidewalk immediately adjacent to the playground or youth center.

- A park, athletic area, or athletic facility that is open to the public and a street or sidewalk immediately adjacent to those areas, as provided.
- Real property under the control of the Department of Parks and Recreation or Department of Fish and Wildlife, except as provided.
- Any area under the control of a public or private community college, college, or university, as specified.
- A building, real property, or parking area that is or would be used for gambling or gaming of any kind whatsoever, as specified.
- A stadium, arena, or the real property or parking area under the control of a stadium, arena, or a collegiate or professional sporting or eSporting event.
- A building, real property, or parking area under the control of a public library.
- A building, real property, or parking area under the control of an airport or passenger vessel terminal, as defined.
- A building, real property, or parking area under the control of an amusement park.
- A building, real property, or parking area under the control of a zoo or museum.
- A street, driveway, parking area, property, building, or facility, owned, leased, controlled, or used by a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission.
- A church, synagogue, mosque, or other place of worship, as specified.
- A financial institution or parking area under the control of a financial institution.
- A police, sheriff, or highway patrol station or parking area under control of a law enforcement agency.
- A polling place, voting center, precinct, or other area or location where votes are being cast or cast ballots are being returned or counted, or the streets or sidewalks immediately adjacent to any of these places.
- Any other privately-owned commercial establishment that is open to the public, except as provided.
- Any other place or area prohibited by federal law, other provisions of state law, or local law.

This bill contains limited exceptions to the prohibitions above related to the transport of a firearm within or in the immediate area surrounding a vehicle.

This bill adds misdemeanor convictions for several crimes related to carrying a concealed, loaded or unloaded handgun or other firearm to the list of offenses that trigger a 10-year ban on the

purchase and possession of firearms, but provides that those convictions must occur after January 1, 2024.

This bill requires the DOJ to recover its costs under Penal Code §30370 by charging a fee not to exceed the fee charged for the DROS process described in Penal Code §28225, as it read on December 31, 2019.

COMMENTS

1. Need for This Bill

According to the Author:

"Gun violence continues to plague our communities. More guns in more places means more people are going to lose their lives. Although crime rates dropped throughout the country from 1977 to 2014, states that rolled back their firearm safety laws have bucked that trend in recent years—for example, the adoption of right-to-carry laws by a state led to a 13-15% increase in violent crime over the next 10 years. The presence of firearms in public increases the dangers of intentional or accidental gun violence—at the workplace, at the movies, or on the road. One study showed that states with permissive right to carry laws experience 29% more workplace homicides than states with more restrictive licensing requirements.

The Supreme Court's decision in *New York Rifle and Pistol Association v. Bruen* changed the way states assess who may carry a concealed weapon in public, but it did not remove the ability of states to address this critical issue. In fact, it provided a roadmap for doing so. *Bruen* affirmed the ability of states to keep firearms out of the hands of dangerous individuals and out of certain sensitive places. With SB 2, California does just that. It provides objective, reasonable guidance that prevents CCW permits from being issued to dangerous individuals and provides a list of places where weapons may not be carried. These “sensitive places” range from areas where other rights are exercised—like the voting booth—to areas where sensitive people gather—like parks and playgrounds. California is proud of its record on gun safety and will not stop working to improve our laws to protect the public."

2. Background – *New York State Rifle & Pistol Association 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.¹ 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, gives the appropriate licensing authority significant discretion in approving or denying an application for a permit if they

¹ The case is also cited at 142 S.Ct. 2111 (2022).

determine that the reason given for carry the weapon does not amount to “proper cause.”² New York’s law was upheld in federal court in the Northern District of New York and 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.³ Writing for the majority, Justice Clarence Thomas concluded that:

The constitutional right to bear arms in public for self-defense is not ‘a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.’ *McDonald*, 561 U. S., at 780 (plurality opinion). We know of no other constitutional right that an individual may exercise only after demonstrating to government officers some special need. That is not how the First Amendment works when it comes to unpopular speech or the free exercise of religion. It is not how the Sixth Amendment works when it comes to a defendant’s right to confront the witnesses against him. And, it is not how the Second Amendment works when it comes to public carry for self-defense. New York’s proper-cause requirement violates the Fourteenth Amendment in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms.⁴

Although it invalidated the New York statute, and abrogated the existing two-part intermediate scrutiny test for evaluating state gun laws, the Court made clear that regulations consistent with historical precedent, such as those that prohibit weapons in “sensitive places,” would likely pass constitutional muster. However, the Court gave little guidance on what constitutes a sensitive place, beyond stating that “expanding the category of ‘sensitive places’ to all places of public congregation that are not isolated from law enforcement defines the category of ‘sensitive places’ far too broadly.”⁵

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.⁶ 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.⁷ 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

² 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 safety concerns, or with no discretion, and require the issuance of the permit if the applicant meets minimum qualifications.

³ *Bruen*, 142 S. Ct. at 2122.

⁴ *Id.* at 2156.

⁵ *Id.* at 2133-2134

⁶ *Id.* at 2123-2124

⁷ The Legal Alert can be found here: <https://oag.ca.gov/system/files/media/legal-alert-oag-2022-02.pdf>

all other aspects of California law with respect to public-carry licenses and the carrying of firearms in public.⁸ This bill seeks to amend California's concealed carry licensing scheme to comport with *Bruen*.

3. This Bill Significantly Restructures California Concealed Carry Law

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." As mentioned in footnote 2, above, California is one of 7 "may-issue" states, giving local law enforcement agencies responsible for issuing CCWs relatively broad discretion in doing so. Currently, these licenses exempt the holder from several restrictions related to carry firearms in public, but may only be issued if the licensing authority finds the following: 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) good cause exists for the issuance of the license; 3) the applicant has completed a firearms safety course; 4) the applicant meets specified residency requirements.⁹ California's highly discretionary CCW framework has led to significant variation among counties in how many permits are issued. For instance, between 2012 and 2022, Orange County issued 65,171 CCW permits, while both Fresno and Sacramento counties issued more than 45,000. By contrast, San Francisco issued just 11 during that timeframe.¹⁰

In an effort to bring California law regarding CCW permits into alignment with *Bruen*, this bill would remove the discretion that local licensing authorities currently have and make California a "shall issue" state, requiring the issuance of a CCW if certain conditions are met. Among these conditions is a determination that an applicant is not a "disqualified person," which means, among other criteria, that the applicant has not been charged with or convicted of specific offenses, has not engaged in the reckless use or display of a firearm, is not abusing controlled substances, has not experienced the loss or theft of multiple firearms, as specified, and is not reasonably likely to be a danger to themselves, others or the community at large. In addition, the bill raises the minimum age requirement to obtain a CCW to 21 years of age, requires applicants to undergo an interview process and submit 3 character references to the licensing authority, and take additional firearm storage and safety training than is currently required under existing law. The bill also imposes several restrictions on licensees carrying a firearm, primarily related to consumption of alcohol and controlled substances and interaction with police officers. Additionally, the bill contains several provisions prescribing a process by which applicants must be notified of their eligibility to obtain a CCW and may request a hearing to challenge a determination by a licensing authority that they are a "disqualified person."

Another major provision of this bill purports to further conform California concealed carry law to *Bruen* by designating several "sensitive places" where CCW licensees would be prohibited from carrying their firearms. The bill lists 26 specific places, as well as any other place prohibited by local, state or federal law. Those places include: all daycare and school grounds, college campuses, government and judicial buildings, medical facilities, public parks and playgrounds, correctional institutions, public transit, public demonstrations and gatherings, athletic and professional sporting facilities, public libraries, amusement parks, zoos and

⁸ *Ibid.*

⁹ Penal Code §§26150, 26155, generally.

¹⁰ "California's change to concealed carry permits would reduce wide variations among counties." *CalMatters*. 29 June 2022. <https://calmatters.org/justice/criminal-justice/2022/06/california-concealed-carry/>

museums, places of worship, banks, polling places, gambling establishments, and any place where alcohol is sold.

Constitutional Considerations

Despite – or perhaps because of – its comprehensive restructuring of California’s CCW laws, this bill comes with a significant degree of constitutional uncertainty. In addition to striking down New York’s concealed carry law, the *Bruen* decision set forth a new test for determining whether a firearm regulation comports with the Second Amendment, which has come to be known as the “text, history and tradition” standard. Under this test, a court must first determine if a person’s conduct is constitutional based on the plain text of the Second Amendment. Courts must then decide if the government has met its burden of showing that the gun law in question is “consistent with the Nation’s historical tradition of firearm regulation.”¹¹ In applying this test to a torrent of new cases challenging state and local firearm regulations, courts around the country have reached wildly diverging conclusions, resulting in a “patchwork of decisions that leaves constitutional standards subject to the vagaries of district court filing practices.”¹² Inevitable challenges to this bill will enter that unpredictable legal landscape, with equally unpredictable prospects for success or failure.

Additionally, as mentioned above, the Supreme Court’s decision in *Bruen* gives little guidance to “may issue” states as to what specific regulations would comply with its holding – and in particular, what specific places constitute “sensitive places.” This bill, which designates 26 types of sensitive places within the State of California, is all but certain to face legal challenges on this issue as well. Therefore, it is entirely unclear whether this bill does, in fact, comport with *Bruen*’s new concealed carry paradigm and, by extension, the Second Amendment. Nevertheless, in the event that specific provisions of the bill are found invalid by a court, the measure includes a severability clause to insulate the remaining provisions and preserve their effect.

4. Ammunition Fee Cross–Reference Correction

SB 1235 (De Leon, Ch. 55, Stats. of 2016) repealed and reconstructed many provisions of the Penal Code related to ammunition vendors, and established a new regulatory framework for the sale and purchase of ammunition in California. Among these changes was a requirement that DOJ impose a fee to recover its processing and enforcement costs related to ammunition purchase authorizations.¹³ Under the language of SB 1235, this per-transaction fee was to be set in accordance with the Dealers Record of Sale (DROS) fee, which at the time was set forth in Penal Code 28225.

Prior to 2020, the DROS fee was implemented in two separate statutes, one that allowed DOJ to charge the fee to the dealer for each firearms purchased and another that effectively allowed the firearms dealer to pass that cost along to the purchaser. AB 1669 (Bonta, Ch. 736, Stats. of 2019) increased the DROS fee to \$31.19 and restructured it within the Penal Code. According to the DOJ website:

¹¹ *Bruen*, 142 S. Ct. at 2130.

¹² Charles, Jacob. “The Dead Hand of a Silent Past: Bruen, Gun Rights, and the Shackles of History.” *Duke Law Journal*, Vol. 73 (forthcoming). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4335545 ; “New York’s Gun Laws Sow Confusion as Nation Rethinks Regulation.” *New York Times*. 27 February, 2023. <https://www.nytimes.com/2023/02/27/nyregion/new-york-gun-rules-supreme-court.html>

¹³ Penal Code §30370.

AB 1669 adds a new section to the Penal Code, section 28233. Subdivision (b) of that section authorizes a new \$31.19 fee for regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms pursuant to any provision listed in section 16580. Because the new fee in section 28233 funds the activities specified previously specified by section 28225, and because this fee is the principal fee charged at the time of each DROS transaction, the Department is naming the fee authorized by section 28233 the ‘DROS Fee.’¹⁴

According to the DOJ, the new DROS fee under AB 1669 was calculated to create sufficient revenues to avert the need for additional General Fund or significant programmatic service reductions. Additionally, AB 1669 authorized the DOJ to adjust the DROS fee in order to fund any firearms activity that is required of DOJ for which there is no sustainable source of funding

As mentioned previously, the amounts of the cost recovery fee authorized by SB 1235, related to ammunition purchases are tied directly to the amount of the DROS fee. However, when the DROS fee was adjusted and codified in a new section of the Penal Code, the code sections establishing those cost recovery fees were not updated with the correct cross-reference. Although the DOJ’s fee authority and assessments have not changed, and there was never an intent to lower the fees, that erroneous omission remains in existing law. This bill amends the cost recovery fee provisions related to ammunition purchases to refer to the DROS fee as it was codified prior to the effective date of AB 1669. In doing so, the bill clarifies that these cost recovery fees remain unchanged since the effective date of AB 1669.

5. Prior Legislation

The provisions of this bill are nearly identical to those of the most recent version SB 918 (Portantino, 2022), which failed on the Assembly floor. When SB 918 was heard in this committee, it did not include the CCW provisions, and was primarily concerned with correcting the firearm and ammunition purchase eligibility check cross references. The major differences between this bill and Senate Bill 918 are that this bill requires a determination that an applicant is “not a disqualified person” rather than a determination that an applicant “is a qualified person,” and does not include an urgency clause.

6. Argument in Support

According to Everytown for Gun Safety and Moms Demand Action:

California is a national leader in gun violence prevention policy, and in 2022 alone, the legislature passed over a dozen important gun safety bills. However, the Court’s decision [in *Bruen*] risks compromising those hard-won gains by making it easier for more people to carry concealed guns in California communities and likely leading to significantly more guns in public places. In recent news articles, San Francisco Sheriff Miyamoto stated the city is processing 72 applications and expecting 100-200 more over the next year, up from only processing 4 concealed carry license applications in approximately the past *decade*. In San Diego, news reports indicate

¹⁴ “Regulations: Dealer Record of Sale (DROS) Fee (Emergency).” California Department of Justice website. <https://oag.ca.gov/firearms/regs/drosfee>

that the county processed approximately 1,900 concealed carry permit applications in 2021, but received almost 5,500 applications for permits in the six months after the *Bruen* decision. As our state continues to experience horrific mass shootings, an onslaught of daily gun violence, and a spike in hateful armed extremism (including extremist demonstrations right here in California) more people carrying guns in public is the absolute last thing we need.

Let's be clear—strong concealed carry permit systems save lives. One report found that when states weaken law enforcement's authority to deny permits to people who pose a danger, violent crime rates rise by 13 to 15 percent over what would have been expected without the change, and firearm homicides increase by 7 percent in urban counties. Another study found that adopting a shall-issue law in general is associated with a 9.5% increase in the rate of firearm assaults. Researchers also found that states that have shall-issue laws without any provisions such as violent misdemeanor prohibitions, live fire requirements, suitability requirements, or dangerousness prohibitions in their shall-issue concealed carry permitting laws see rates of firearm assault and firearm homicide that were 22% and 30% higher than would be expected with these provisions. [...]

SB 2 will strengthen California's concealed carry license system in a number of key ways in response to the Court's decision. It will ensure that licenses to carry a loaded gun in public are not granted to people who are determined to be a danger to self or others based on a thorough background check and will prohibit guns from sensitive areas where they don't belong. It will also improve training requirements for concealed carry to ensure license-holders can properly handle, store, and transport a firearm, and know where guns are not allowed. And, it will raise the age to carry a handgun in public from 18 to 21.

7. Argument in Opposition

According to the California State Sheriffs' Association:

On behalf of the California State Sheriffs' Association (CSSA), we regret to inform you that we must oppose [...] Senate Bill 2, which would impose significant new restrictions on the issuance of licenses to carry concealed firearms (CCW) and establish overly broad limitations on where and when a licensed individual may carry a concealed firearm.

Overall, and despite the inclusion of some provisions that came at our request, this approach remains a significant restriction on the ability of law-abiding citizens to be licensed to carry concealed. The circumstance of a CCW holder committing a crime is exceedingly rare yet this bill imposes overreaching provisions that will likely be challenged in court, leaving uncertainty in issuance procedures. Instead of focusing on a law-abiding population, efforts should address preventing gun crimes committed by those who disobey the law and holding them accountable.

To address the holding of the United States Supreme Court in *Bruen*, which struck down "good cause" requirements in CCW statutes, a bill could have been offered that simply eliminated that constitutionally infirm provision. Instead, SB 2 creates an unnecessarily complicated, burdensome, and overreaching licensing scheme that

invites judicial scrutiny and seems destined to be struck down, in part or in whole. The new workload resulting from vetting procedures and a codified judicial appellate process for persons denied a CCW license will burden issuing authorities, court officers, and the judiciary toward little to no increase in public safety.

SB 2 also fails to resolve the longstanding issue of not being able to record joint ownership of a firearm. By not accommodating persons who lawfully and jointly own a firearm to be able to list that same firearm on multiple CCWs, the law will likely encourage the proliferation of gun purchases. Further, the bill greatly restricts when and where licensees may carry concealed and could severely restrict the exercising of the right. Again, individuals who go through the process to carry concealed legally are exceedingly unlikely to violate the law, yet SB 2 turns much of the state into “no-carry” zones that will do nothing to foster public safety.

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