

# SB 2 (Portantino)

## Concealed Carry Weapon Licensing Laws & Penal Code Updates

### SUMMARY

SB 2 will implement various improvements to California's existing concealed carry weapon regime in response to the recent United States Supreme Court decision in *New York Rifle and Pistol Association v. Bruen*. The bill would also clean up outdated provisions and the erroneously omitted cross reference updates relating to the Dealer Record of Sale (DROS) fee, the supplemental fee, and the authority of Department of Justice (DOJ) in the regulation of the sale of firearm precursor parts and authorization to issue a firearm precursor part vendor license.

### PROBLEM

#### I. California's Concealed Carry Weapon (CCW) Licensing Laws Post *Bruen*

In late June 2022, the Supreme Court in *New York Rifle and Pistol Association v. Bruen* issued a decision holding that licensing schemes requiring an applicant for a concealed carry license to show good cause (or something similar) to carry firearms are unconstitutional, necessitating a legislative response given California's similar regulatory framework. SB 2 would establish a more uniform and effective licensing process throughout California and address implications from the Supreme Court's recent decision in *Bruen*.

#### II. Updates to the Penal Code

There are currently a number of cross-referencing issues arising from the passage of SB 1235 (2016), AB 1669 (2019) and AB 879 (2019). Penal Code § 30370, as amended by

SB 1235 (2016), cross references an out-of-date code section. Penal Code § 30470, as amended by AB 879 (2019) and SB 118 (2020), cross references an out-of-date code section. Penal Code § 30370, as amended by AB 879 (2019) and SB 118 (2020), cross references an out-of-date code section. SB 2 cleans up obsolete code provisions and updates firearms related cross references.

### UPDATES TO CCW LAWS

#### I. Comprehensive Licensing Regime

SB 2 replaces California's current "good cause" requirement with a requirement that the licensing authority, prior to issuing a license or renewing a license, determine that the applicant is not a disqualified individual, based on an assessment of defined criteria; provides a mechanism for establishing a standardized CCW application for use statewide, which will require an applicant to list all prior arrests, criminal convictions, restraining or protective orders, as well as references to assist the licensing authority in assessing the dangerousness of an applicant. A licensing authority will be required to deny a license or renewal application if the authority determines that the applicant has committed certain acts, been convicted of certain crimes, or has been the subject of certain restraining orders, all of which indicate, in California's view, that it is reasonably likely that the applicant has been or is reasonably likely to be a danger to themselves or others. In making that determination, the licensing authority will be required to conduct an in-person interview with the applicant, interview at least

three character references, and review publicly available information about the applicant. SB 2 will also promote due process by allowing anyone whose application is denied to receive a hearing before a judge of the superior court for an additional layer of review. These new procedures will ensure that, consistent with the Supreme Court’s decision in *Bruen*, only “law-abiding” and “responsible” applicants for a CCW license will be authorized to receive one.

## II. Age Restrictions

SB 2 will strengthen California’s public carry restrictions by setting the minimum age to obtain a CCW license at 21. Young adults, who are still developing neurologically and are prone to engaging in risk-taking and reckless activities, should not be allowed to carry firearms in public, putting themselves, their families, and their friends at risk. This age limit will align the CCW licensing process with other gun safety laws, such as the minimum age to purchase a handgun.

## III. Gun Storage and Training

SB 2 will impose new gun storage and training requirements for anyone who obtains or renews a permit to carry a firearm in public. It is essential for anyone authorized to possess firearms in public know the laws applicable to the use (and misuse) of firearms and how to safely handle, load, unload, and store a firearm. To further protect the public, SB 2 will limit all CCW licensees to carrying no more than two firearms on their person at any given time when carrying in public. Study after study demonstrates that individuals hardly ever need to fire more than 10 rounds to defend themselves, yet individual’s intent on harming the public—including mass shoot-

ers—routinely use multiple firearms and magazines that hold more than 10 rounds to perpetrate their crimes and commit acts of terrorism. This two-gun rule will minimize the use of firearms for illegal purposes, reduce the likelihood of firearms being misplaced or stolen in public, all without impairing the ability of CCW licensees to protect themselves.

## IV. Sensitive Places

SB 2 will limit the places in which CCW licensees will be authorized to carry firearms in public. SB 2 will designate certain sensitive places as off-limits for firearms, including school grounds, community college, college, or university grounds, government and judicial buildings, medical facilities, public transportation, any place where alcohol is sold and consumed, public parks and playgrounds, or special events that require a permit (such as demonstrations). These restrictions on where firearms may be carried are consistent with sensitive places designated by states that have adopted permissive right-to-carry laws, like Missouri. And they are consistent with the Supreme Court’s decision in *Bruen*, which recognized that States may limit the carrying of firearms in certain sensitive places.

## **UPDATES TO THE PENAL CODE**

The DROS fee is collected each time a firearm is transferred or sold by a licensed dealer in California. The fee was meant to address the cost of the background check performed on a purchaser as well as other DOJ costs. What began over thirty years ago as a fee simply covering the cost of conducting background checks was expanded to encompass eleven different activities by the DOJ. The previous \$19 fee could no longer support all of the required activities mandated by law.

AB 1669 (2019) accordingly updated and augmented the DROS fee – in two separate statutes. Under the resulting law, the original DROS fee was reduced to \$1 and may be used for reimbursing certain costs. The new Supplemental Fund, which imposed a \$31.19 fee, was to be used by DOJ for core programmatic firearms regulatory functions and background checks.

This update has not been uniformly reflected in legislation relating to the collection of fees.

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