

Date of Hearing: July 15, 2025
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

SB 704 (Arreguín) – As Amended June 25, 2025

UPDATED

As Proposed to be Amended in Committee

SUMMARY: Prohibits the sale or transfer of a firearm barrel unless the transaction is completed in person by a licensed firearms dealer. Specifically, **this bill:**

- 1) States that, commencing January 1, 2027, a firearm barrel shall not be sold or transferred unless that transaction is completed in person by a licensed firearm dealer, and the licensed firearm dealer has conducted a background check to determine that the person is authorized to purchase a firearm, ammunition, and a firearm barrel in a manner prescribed by the California Department of Justice (DOJ).
- 2) Establishes that a firearm barrel shall only be possessed with the intent to be sold or offered to be sold by a licensed firearms dealer, as defined.
- 3) Provides that a person is authorized to purchase a firearm barrel if they are at least 18 years of age and are not prohibited from possessing or purchasing a firearm under state or federal law.
- 4) Requires the licensed firearm dealer to legibly record all of the following information on a form to be prescribed by the DOJ pertaining to the sale or transfer of the firearm barrel:
 - a) The date of the sale or transfer;
 - b) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued;
 - c) The make, model, and caliber of the firearm that the firearm barrel is designed for or used in;
 - d) The purchaser's or transferee's full name;
 - e) The name of the salesperson who processed the sale or transfer;
 - f) The purchaser's or transferee's full residential address and telephone number; and,
 - g) The purchaser's or transferee's date of birth.

- 5) Provides that, commencing January 1, 2027, a licensed firearms dealer shall electronically submit to the DOJ the information above for all sales and transfers of ownership of a firearm barrel, and that the DOJ shall not retain this information once the background check is completed and the firearm barrel has been listed as delivered.
- 6) Exempts the following from the process outlined above:
 - a) Federal, state and local law enforcement agencies;
 - b) Federal firearms licensees;
 - c) The United States military;
 - d) A person purchasing a firearm and undergoing a state and federal firearm background check pursuant to existing law;
 - e) Sales or transfers to a person who, in the same transaction, is separately purchasing a firearm and undergoing a state and federal firearm background check, as defined;
 - f) Sales or transfers to a federally licensed collector who is acquiring or being loaned the barrel of a firearm that is a curio or relic, as defined, and who has a current certificate of eligibility issued by DOJ, as defined;
 - g) Transfers to the executor, personal representative, or administrator of an estate; and
 - h) A barrel that is attached to or affixed to a firearm.
- 7) Establishes that a first violation of the prohibition on the sale or transfer of a firearm barrel, as specified above, shall be punishable by up to six months in county jail, by a \$1,000 fine, or by both.
- 8) Establishes that a second violation of that above shall be punishable as a misdemeanor by up to one year in jail and a fine of \$1,000.
- 9) Establishes that a third or subsequent violation of the above shall be punishable by imprisonment in a county jail not exceeding one year, by imprisonment in county jail for 16 months, two years, or three years, or by a fine of up to \$2,000, or by both that fine and imprisonment.
- 10) Defines “firearm barrel” as the tube, usually metal and cylindrical, through which a projectile or shot charge is fired. A firearm barrel includes a firearm barrel that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as a firearm barrel, or that is marketed or sold to the public to become or be used as a firearm barrel once completed, assembled, or converted. A firearm barrel may have a rifled or smooth bore.
- 11) Requires money received by DOJ deposited in the DROS Special Account of the General Fund to be used to offset the costs associated with implementing this bill, among other laws.

12) Authorizes the DOJ to adopt regulations to implement its provisions, as specified.

13) Establishes that provisions of the bill are severable.

EXISTING FEDERAL LAW:

- 1) Provides that Congress shall have the power to regulate commerce with foreign nations, among states, and with the Indian tribes. (U.S. Const., art. I, Sec. 8, cl. 3.)
- 2) States that a well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed. (U.S. Const., 2nd Amend.)
- 3) Establishes that the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the National Instant Criminal Background Check (NICS) system established under this section. (34 U.S.C. § 40901(h).)

EXISTING LAW:

- 1) Prohibits the sale, lease or transfer of firearms unless the person has been issued a license by the Department of Justice (DOJ), and establishes various exceptions to this prohibition. (Pen. Code, §§ 26500 – 26625.)
- 2) Requires a firearms dealer or licensee to meet all the following requirements:
 - a) Have a valid federal firearms license;
 - b) Have any regulatory or business license, or licenses, required by local government;
 - c) Have a valid seller's permit issued by the California Department of Tax and Fee Administration;
 - d) Have a certificate of eligibility issued by the DOJ, as specified;
 - e) Have a license issued in a specified format; and,
 - f) Be recorded in the DOJ's centralized list of licensees. (Pen. Code, § 26700.)
- 3) Provides that a license to sell firearms is subject to forfeiture for any violation of specified prohibitions and requirements, with limited exceptions. (Pen. Code, § 26800, subd. (a).)
- 4) States that transfers go through a licensed dealer, including for the transfer of a firearm by bequest or intestate succession, or to a surviving spouse, or transfers by a person acting pursuant to operation of law, a court order, or pursuant to other specified laws, with defined exceptions. (Pen. Code, §§ 26505, 26515.)
- 5) Provides that where neither party to a firearms transaction holds a dealer's license (*i.e.*, a "private party transaction"), the parties shall complete the transaction through a licensed firearms dealer. (Pen. Code, § 27545.)

- 6) Requires firearms dealers to keep a register or record of electronic or telephonic transfer of firearms (also known as the Dealers' Record of Sale, or DROS), unless certain specified circumstances apply. Makes a failure to comply a misdemeanor. (Pen. Code, § 28100.)
- 7) Provides that the register required above shall be prepared by and obtained from the State Printer, and that DOJ shall prescribe the form of the register and the record of electronic transfer. (Pen. Code, §§ 28105, 28155.)
- 8) Establishes the DROS Special Account within the General Fund, which shall be available for expenditure by the DOJ to offset the reasonable costs of firearms-related regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms, as specified. (Pen. Code, §§ 28233, 28235).
- 9) Requires that in connection with any sale, loan or transfer of a firearm, a licensed dealer must provide the DOJ with specified personal information about the seller and purchaser as well as the name and address of the dealer. A copy of the DROS, containing the buyer and seller's personal information, must be provided to the buyer or seller upon request. (Pen. Code, §§ 28160, 28210, & 28215.)
- 10) Requires the DOJ, upon submission of firearm purchaser information, to examine its records to determine if the purchaser is prohibited from possessing, receiving, owning, or purchasing a firearm. Prohibits the delivery of a firearm within 10 days of the application to purchase or, after notice by DOJ, within 10 days of the submission to the DOJ of any corrections to the application to purchase, or within 10 days of the submission to the DOJ of a specified fee. (Pen. Code, §§ 28200 – 28250.)
- 11) Provides that the DOJ shall participate in the National Instant Criminal Background Check System (NICS), and specifies the process DOJ must follow in notifying various parties that a prospective firearm purchaser is prohibited from acquiring a firearm under state or federal law. (Pen. Code, § 28220.)
- 12) Provides that for numerous specified provisions, the definition of “firearm” immediately above includes the frame or receiver of the weapon, including both a completed frame or receiver or firearm precursor part. (Pen. Code, § 16520, subd. (b).)
- 13) Prohibits the purchase, sale, offer, or transfer of any firearm precursor part that is not a federally regulated firearm precursor part, except as specified. (Pen. Code, §§ 30400, 30420.)
- 14) Authorizes DOJ to issue ammunition vendor licenses and requires a valid ammunition vendor license for any person, firm, corporation, or other business for the sale of more than 500 rounds in any 30-day period, as specified. (Pen. Code, §§ 30385 – 30395, 30342.)
- 15) Requires ammunition vendors to collect specified ammunition purchaser information and transmit the information to DOJ. DOJ is required to electronically approve the purchase or transfer of ammunition through a vendor, as specified. (Pen. Code, §§ 30352, 30370.)
- 16) Defines “firearm” for most provisions of the Penal Code related to firearms as a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. (Pen. Code, § 16520, subd. (a).)

- 17) Defines “firearm precursor part” as any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted. (Pen. Code, § 16531, subd. (a).)
- 18) Defines “federally regulated firearm precursor part” as any firearm precursor part deemed to be a firearm pursuant to specified federal statutes and regulations issued pursuant thereto, and, if required, has been imprinted with a serial number by a federal licensee authorized to serialize firearms in compliance with those federal laws. (Pen. Code, § 16519.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, “In recent years, California experienced a proliferation of ghost guns built from unregulated parts including unfinished frames and receivers. The legislature and the governor have taken strong action to prevent the unregulated sale and possession of these untraceable firearms. However, there is an emerging ghost gun threat. Criminals and the firearm industry quickly pivoted away from ghost gun kits and parts to three-dimensional printing (3D printing) of as many parts as possible to construct a working firearm, without having to go through a firearm background check or being subject to any of the other state or federal laws regulating firearms. These firearms are being recovered at increased rates all over the state and it is imperative that we take action now to curb the threat.

“This bill builds on California’s nation-leading gun safety laws and seeks to prevent firearm assembly by those who are not legally authorized to possess them.”

- 2) **Effect of this Bill:** Under existing California law, all firearm sales and transfers, including sales and transfers of firearm precursor parts, must be completed through licensed firearm dealers. (Pen. Code, §§ 26500 – 26625.) As firearm barrels seem to be neither precursor parts nor firearms in and of themselves under existing definitions, state law imposes virtually no restrictions on their sale or transfer. This bill seeks to prohibit the sale or transfer of a firearm barrel unless a licensed firearms dealer completes that transaction in person and the dealer conducts a background check. The bill further requires the firearm dealer to record certain information regarding the transaction, which would be submitted to DOJ. Some are exempt from these requirements, including among others, federal, state, and local law enforcement agencies, the United States military, and a person already undergoing a state and federal background check because they are purchasing a firearm.

This bill would regulate only one component of a firearm. Barrels are components of almost all firearms and are one of the three essential components to nearly every firearm (the other two being action and stock).¹ With the enormous variety of firearms available, it is difficult

¹ *Basic Parts of a Gun*, American Gun Association <<https://blog.gunassociation.org/parts-of-a-gun/>> [as of June 19, 2025].

to note every distinct part of a firearm, but most firearms appear to have at least a dozen distinct parts.² More comprehensive lists that identify more than thirty distinct parts can be readily found, too.³

It does not appear possible currently to manufacture a 3D-printed fully formed and functional firearm. Manufacturing or acquiring many distinct parts is therefore required. Tragedy can strike with just one sufficiently manufactured firearm firing one accurate bullet, but whether those tragedies are avoidable by regulating just one part of a firearm was not found during research.

It is likewise unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.⁴ Data shows greater deterrent effects as the likelihood of being caught increases and the perception rises that one will be caught.⁵ In contrast, the act of punishment and the length of punishment largely do not increase deterrence.⁶ Given the data on confinement and deterrence,⁷ it is debatable whether new criminal penalties only on firearm barrels will reduce the proliferation of ghost guns or increase public safety.

This bill additionally makes violations of its provisions punishable by up to one year in jail and a mandatory \$1,000 fine for a first offense. Notably, the amount spelled out in statute as a fine for violating a criminal offense are base figures, as these amounts are subject to statutorily-imposed penalty assessments, such as fees and surcharges. (See Pen. Code, §§ 1464-1465.8, Gov. Code, §§ 70373, 7600.5, 76000-76104.7.) Current penalty assessments total roughly four times of the base fine. (*Ibid.*) Therefore, a fine of \$1,000 actually could cost an individual \$4,100. (*Ibid.*)

Criminal fines rapidly balloon into unpayable amounts for most of the population, which create downstream economic consequences for impacted individuals and society. Unsurprisingly, the judicial branch reported that \$8.6 billion in fines and fees remained unpaid at the end of 2019-20.⁸ With evidence also showing that rising criminal fines increases felony recidivism,⁹ specifically among a population that historically has faced disproportionate punishment in the criminal justice system, it remains questionable whether increasing criminal punishment would produce the desired public safety results.

² *Ibid.*

³ *Parts of Firearms*, U.S. Concealed Carry Association
<<https://www.usconcealedcarry.com/resources/terminology/parts-of-firearms/>> [as of June 19, 2025].

⁴ *Five Things About Deterrence* (May 2016) National Institute of Justice
<<https://www.ojp.gov/pdffiles1/nij/247350.pdf>> [as of June 24, 2025].

⁵ *Ibid.*

⁶ *Ibid.*

⁷ See *infra*, at footnotes 6-10.

⁸ *Overview of Criminal Fine and Fee System* (May 13, 2021) Legislative Analyst's Office
<<https://lao.ca.gov/Publications/Detail/4427>> [as of June 24, 2025].

⁹ Giles, *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees* (Sept. 9, 2023) Wellesley College <<http://dx.doi.org/10.2139/ssrn.4568724>> [as of June 27, 2025] (showing that the increase in fines levied for criminal punishment increased the likelihood of felony recidivism, especially among Black defendants).

- 3) **The Bruen Analysis:** This bill would require background checks for purchases or transfers of firearm barrels. The Second Amendment says, “. . . the right of the people to keep and bear arms[] shall not be infringed.” (U.S. Const. amend II.) The US Supreme Court has interpreted the Second Amendment to recognize an individual right to keep and bear arms. (See *District of Columbia v. Heller* (2008) 554 U.S. 570.) The Court also incorporated the Second Amendment to the States, thereby binding the States to protect this right, at least at the same level of the federal government. (See *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1, 37) When evaluating a Second Amendment challenge, we must first analyze whether the individual has shown that “the Second Amendment’s plain text covers [their] conduct.” (*Id.* at p. 17.) This burden is met “if the law at issue ‘regulates’ Americans’ arms-bearing conduct.” (*United States v. Rahimi* (2023) 602 U.S. 680, 691.) Once the individual clears this threshold, the Constitution presumptively protects their conduct. (*Ibid.*) Here, whether a firearm barrel is an “arm” is a potentially dispositive consideration—if a firearm barrel were not an arm, then the Second Amendment would not apply to this bill.

Using a Framing-era dictionary, the Court defined arms as “weapons of offence, or armour of defence,” including “any thing that a [person] wears for his defence, or takes into his hands, or used in wrath to cast or strike at another.” (*Heller, supra*, at p. 581.) The Court found the Second Amendment extends to “all instruments that constitute bearable arms, even those not in existence at the time of the founding.” (*Id.* at p. 582.) Given the breadth and imprecision of this definition, it is arguable whether a firearm barrel, standing alone, could be a bearable arm. The size, material, and weight of most firearm barrels could lend themselves to use as offensive weapons, but such use would be uncommon and would not be an intended use.¹⁰ While the US Supreme Court has not directly addressed this question, our Ninth Circuit Court of Appeals has given us guidance.

As the Ninth Circuit stated over a decade ago, “for the right to bear arms to have meaning, the Amendment’s text must carry an implicit, corollary right to bear components or accessories necessary for the ordinary functioning of a firearm.” (*Duncan v. Bonta* (9th Cir. 2025) 133 F.4th 852, 866, quoting *Jackson v. City & County of San Francisco* (9th Cir. 2014) 746 F.3d 953, 967.) The Ninth Circuit therefore found the Second Amendment encompasses a right to possess components “necessary to render . . . firearms operable.” (*Duncan v. Bonta* (9th Cir. 2025) 133 F.4th 852, 866-67, quoting *Fyock v. Sunnyvale* (9th Cir. 2015) 779 F.3d 991, 998.)

The court would go on to distinguish between “arms” and “accoutrements,” the latter of which they stated are not protected by the Second Amendment. (*Duncan, supra*, at p. 867.) The court defined “accoutrements” as “flint, scabbards, holsters, and ammunition containers such as cartridge cases or cartridge boxes.” (*Ibid.*) Because a firearm barrel is one of the few essential components of a firearm¹¹ and appears distinct from the court’s definition of accoutrements, a firearm barrel seems to most clearly land in the Second Amendment’s corollary right to keep components necessary to operate a firearm. Therefore, a firearm barrel is likely an “arm” under the Second Amendment. This means the Constitution presumptively

¹¹ See *supra*, at footnote 1.

protects ordinary conduct related to firearm barrels, such as possession, purchasing, selling, and ownership.

It is arguable whether corollary Second Amendment rights need be subjected to a “full historical inquiry” to pass constitutional muster (See *United States v. Manney* (9th Cir. 2024) 114 F. 4th 1048.) The Ninth Circuit has noted that when regulation implicates ancillary Second Amendment rights, the relevant question is whether the law “meaningfully constrain[s] the right to keep and bear arms for the purpose of self-defense.” (See *B&L Prods. V. Newsom* (9th Cir. 2024) 104 F.4th at 108, 119.) If the challenged law does not implicate conduct necessary to effectuate core Second Amendment rights, like the right to keep and bear arms, it may not need to satisfy *Bruen*’s historical tradition test. (*Oakland Tactical Supply LLC v. Howell Township, Michigan* (6th Cir. 2024) 103 F.4th 1186, 1196.) An argument can be made that firearm barrel regulations both meaningfully constrain the core rights because a barrel is one of three essential components to a firearm and do not meaningfully constrain core rights because the law is not a prohibition on acquiring barrels, but simply requires a person go through essentially the same process as acquiring a firearm. Since we do not have clear Supreme Court precedent guiding us on this particular issue, however, it seems reasonable to analyze the bill under the historical tradition test.

With the threshold showing satisfied, the burden is on the government to justify a law or regulation that purports to place restrictions on protected Second Amendment conduct by showing the law is “consistent with the nation’s historical tradition of firearms regulation.” (*Bruen, supra*, at p. 17.) A firearms regulation is constitutional under the Second Amendment if the government establishes the proposed law is “relevantly similar” to historical laws, regulations, and traditions. (*Id.* at p. 29.) Relevantly similar means laws that have historical analogues, how the proposed law comparatively burdens a person’s Second Amendment rights, and how the proposed law is comparatively justified. (*Ibid.*)

The search for relevantly similar laws regulating firearm barrels yields some results. In 1616, King James I banned dags, which is a small handgun.¹² The 1541 statute from King Henry VIII’s reign banned handguns “shorter than one yard[] in length” and shoulder guns shorter than “thre[e] quarters of one yard[]” in length.¹³ In an effort to restrict trading and selling arms to Native Americans, the colony of New Netherland instituted a severe gun barrel ban around 1652 with the purpose of limiting trade with Native Americans and Black Americans.¹⁴ A 1792 Pennsylvania law disarmed “‘disaffected’ persons during the Revolutionary War of ‘any blunderbuss,’” though this law largely was aimed at giving American militia members authority to seize weapons from those who may be opposing the

¹² Greenlee, *The Tradition of Short-Barreled Rifle Use and Regulation in America* (2025) 25.1 Wyom. L.Rev. 112, 128 <<https://scholarship.law.uwyo.edu/cgi/viewcontent.cgi?article=1514&context=wlr>> [as of June 19, 2025].

¹³ *Ibid.*

¹⁴ Kopel & Greenlee, *The History on Bans of Types of Arms Before 1900* (2024) University of Denver Journal of Legislation <<https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1774&context=jleg>> [as of June 19, 2025] (the ban read, in part, “no person . . . shall be at liberty to bring into the country . . . any sort of gunbarrels, finished or unfinished . . .”).

revolutionary cause.¹⁵ Some American colonies also established militia laws that regulated the length of firearms required for militia service.¹⁶

There is an argument that surveying other historical laws for other necessary components to render a firearm operable, like actions, stocks, and ammunition, more fully represents the historical tradition courts could apply to this bill. The *Bruen* Court advised us that satisfying the test “requires only that the government identify a well-established and representative historical *analogue*, not a historical *twin*.” (*Bruen*, *supra*, at p. 30.) The *Bruen* Court also warned that, “courts should not ‘uphold every modern law that remotely resembles a historical analogue,’ because doing so ‘risk[s] endorsing outliers that our ancestors would never have accepted.’” (*Ibid.*) The *Bruen* and *Rahimi* Courts were looking for analogues to regulations essentially targeted at behavior related to possessing operable firearms – public carry laws and laws authorizing temporary dispossession of dangerous individuals (See generally, *Bruen and Rahimi*, *supra*.). This bill would likewise regulate behavior in the sense that it regulates sales and transfers, but the regulations in this bill primarily are targeted at regulating specific behaviors with just one component of a non-operable firearm – firearm barrels. This makes determining the scope of the historical inquiry challenging without clearer judicial guidance. Given the existence of historical firearm barrel regulations, focusing the historical analysis on those regulations as analogous seems worth examination.

It is unclear whether the firearms barrel laws add up to a sufficiently comprehensive historical tradition. In *Bruen*, the Court evaluated more than a dozen laws and regulations from English common law, the American colonial period, the Framing era, antebellum America, the Civil War and Reconstruction eras, and the American territorial period. (*Id.* at pp. 43-70.) They found insignificant historical evidence to support a tradition of public carry regulations that constitutionally would justify New York’s may-issue licensing regime. (*Id.* at 70.) In *Rahimi*, however, the Court largely used only two sets of laws (going armed laws and surety laws) to justify dispossession of someone who had a demonstrated history of dangerousness. (See *Rahimi*, *supra*, at p. 696.)

The question of whether these laws evidence a relevantly similar historical tradition that would be sufficient to support the restrictions in this bill produce an important source of constitutional concern. The relevantly similar laws cited in *Rahimi*, where the “how” and “why” involved historical laws regulating firearm use by dangerous individuals because a history of dangerousness indicates the person is a greater threat to public safety, were used by the Court as support for a federal law temporarily dispossessing people of firearms who have a history of dangerous behavior. (*Rahimi*, *supra*, at pp. 697-99.) The historical tradition of firearm barrel regulations analogous to this bill (the “how”) almost entirely involve barrel length with the restrictions being inconsistently enforced and then abandoned.¹⁷ This bill largely regulates acquisition, transfer, and sales of firearm barrels, with authorization for

¹⁵ *Supra*, note 32, at pp. 114-18 (Blunderbusses had a “‘short flintlock’ with a ‘flared muzzle’ that could ‘fire one large projectile or several at once,’ and appeared in [many] forms, ‘including pistols, carbines, and musketoons.’” Larger ones for carrying in a coach had 9 inch barrels, while pistol and carbine blunderbusses were smaller.).

¹⁶ *Id.* at 130, fn. 152 (militia members were required to be outfitted with “a good musket . . . not under three foot nine inches in length.”).

¹⁷ *Id.* at 128-130 (noting the 1541 statute was “not enforced for long”, the 1652 New Netherland restriction on gun barrel sales was “futile” that led the colony to permit each colonist one flintlock carbine, and even this allowance “did not survive” after England seized control of the colony in 1664.).

bans in certain cases but without any references to the size of the barrel. The historical concerns around barrel length (the “why”) focused on the risks of concealability and ensuring greater accuracy of the firearms used by militia members.¹⁸ Concerns over concealability and accuracy do not appear present in this bill. This bill purports to make ghost guns more difficult to produce, which would then ideally reduce ghost guns used in crimes and improve public safety.

Two English laws from the 16th and 17th centuries and some colonial-era laws, all which regulated only firearm barrel length, may not be sufficiently and relevantly similar to this bill to establish constitutionality.¹⁹ Even the historical regulations on barrel length appear sparse. As one scholar wrote, “There were very few length-based firearms regulations in England, the colonial era, founding era, or United States’s first 150 years.”²⁰ The author went on to write:

Some American colonies enacted militia laws specifying the length of firearms certain militiamen had to keep and bear for militia service. But these laws did not prevent militiamen or anyone else from owning firearms of other lengths. Nor did any founding era or nineteenth-century laws, although a great variety of firearms were invented with a myriad of barrel lengths and different numbers of barrels throughout those time periods.²¹

Even the 1652 gun barrel ban in the New Netherland colony and the 1792 Pennsylvania law authorizing militias to dispossess “disaffected persons,” both of which did not address barrel length, offer limited evidence of a historical tradition. These laws regulated firearm barrels in a different way – one authorized a firearm barrel ban and the other authorized seizure of firearm barrels, while this bill conditions mostly sales to in-person transactions following a background check.²² Additionally, the rationale for these laws were rooted in national defense and discrimination,²³ which are concerns different from this bill.²⁴ Because this bill would regulate differently and for different reasons, the historical evidence unlikely is relevantly similar. The lack of historical evidence here creates important constitutional concerns,²⁵ and its constitutionality reasonably may be questioned.

- 4) **The Dormant Commerce Clause:** This bill would impact certain out-of-state firearms businesses by establishing requirements that firearm barrels in the State be sold or transferred in person at a licensed California dealer. Because this would create a disadvantage for out-of-

¹⁸ *Supra*, note 32, at pp. 128-31.

¹⁹ See *supra*, notes 13-17; and *Bruen*, *supra*, at p. 35 (“As with historical evidence generally, courts must be careful when assessing evidence concerning English common-law rights . . . And English common-law practices and understandings at any given time in history cannot be indiscriminately attributed to the Framers of our own Constitution.”)

²⁰ *Supra*, note 14, at p. 128.

²¹ *Supra*, note 14, at pp. 129-30

²² See *supra*, notes 15-16.

²³ See *supra*, notes 14-15.

²⁴ See *ibid*.

²⁵ *Bruen*, *supra*, at p. 29 (“whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are ‘central’ considerations when engaging in an analogical inquiry.”); and *Rahimi*, *supra*, at p. 698 (“Like the surety and going armed laws, [the federal law at issue] applies to individuals found to threaten the physical safety of another. This provision is ‘relevantly similar’ to those founding era regimes in both why and how it burdens the Second Amendment right.”).)

state sellers, the bill's constitutionality under the Constitution's Commerce Clause may also be at issue.

The dormant Commerce Clause is a constitutional rule read into the Commerce Clause. The Supreme Court has interpreted the Commerce Clause to infer a constitutional rule that state laws putting unreasonable restrictions on interstate commerce, even in areas where Congress has not regulated, are unconstitutional. (See *Nat'l Pork Producers Council v. Ross* (2023) 598 U.S. 356, 357.) The Supreme Court has identified two main tenets for dormant Commerce Clause analysis: 1) states may not discriminate against interstate commerce, and 2) states may not take actions that are facially neutral but unduly burden interstate commerce. (*South Dakota v. Wayfair, Inc.* (2018) 585 U.S. 162, 172-73.) It is possible for a state law to discriminate against interstate commerce "either on its face or in practical effect." (*Maine v. Taylor* (1986) 477 U.S. 131, 138.) If a showing is made that the law discriminates against interstate commerce, the proponents must demonstrate that the statute serves a legitimate local purpose and that purpose cannot be equally served by available nondiscriminatory means. (*Ibid.*) In these cases, the extent of the burden from the law that can be tolerated depends on "the nature of the local interest involved." (*Pike v. Bruce Church, Inc.* (1970) 397 U.S. 137, 142.)

This *Pike* balancing test was questioned in the Supreme Court's most recent dormant Commerce Clause case, but was not outright rejected, which leaves analyses of potential dormant Commerce Clause violations subject to multiple possible lines of inquiry. (See generally, *Ross*, supra.) The Court, however, appeared to reject a *per se* rule for interstate commerce discrimination in this same case, which does somewhat narrow the analytical focus. (*Ibid.*) While there may be relevant questions about whether Congress can waive dormant Commerce violations for states regulating in the same area Congress has regulated,²⁶ the Court did not address this issue in its most recent case implicating the dormant Commerce Clause. (*Ibid.*) It remains unclear whether Congress ever established such a waiver in this context and thus, whether that waiver would apply to this bill, which is a unique state law that regulates only firearm barrels. (See, e.g., *Prudential Ins. Co. v. Benjamin* (1946) 328 U.S. 408, 426 ["[I]f the commerce clause 'by its own force' forbids discriminatory state taxation, or other measures, how is it that Congress by expressly consenting can give that action validity?"].)

On its face, this bill does not appear to discriminate against interstate commerce. The purpose of the bill is to enhance public safety for Californians by placing regulations on firearms barrels. The author expects this will enhance public safety by reducing the proliferation of ghost guns, which would reduce those guns used in crimes. Even starting with the assumption that the law is facially neutral, certain elements of the bill place burdens on interstate commerce, like those requiring in-person transactions at a California licensed dealer following a background check. This bill as law would produce some amount of discrimination against interstate commerce because out-of-state retailers of firearms barrels no longer would be able to sell firearm barrels directly to California consumers. Whether this law rises to the level of an "undue" burden is debatable, since the bill does carve out exceptions and does not appear to restrict out-of-state seller to in-state seller or dealer transactions.

The key questions here may then be the nature of the bill's purpose, whether that purpose is legitimate, and if that purpose otherwise can be accomplished by available, nondiscriminatory means. The nature and legitimacy of the bill appear sound. Public safety concerns are a widely accepted and foundational purpose for state regulation. Whether there are available, nondiscriminatory means to achieve this objective likely presents the greatest constitutional concern under a dormant Commerce Clause analysis, especially as one court recently found an analogous firearms-related law unconstitutional under both the Second Amendment and the dormant Commerce Clause.

In a case implicating some of California's ammunition regulations, one federal court found a violation of the dormant Commerce Clause. This bill would be at least partly analogous to those regulations because the background checks would be conducted without using NICS (as discussed further in Section 6) and like our ammunition regulations, this bill would preclude transactions from out-of-state sellers directly to in-state consumers. There, the court wrote, "The Attorney General has pointed to no other laws in the nation that erect a similar barrier to this one, keeping away out-of-state ammunition sellers and guaranteeing all sales originate with, or flow through, only in-state ammunition sellers. It is precisely such purposeful discrimination that lies at the core of the Supreme Court's dormant Commerce Clause concerns." (*Rhode v. Bonta* (Fed. S. Dist. 2024) 713 F. Supp 865, 885.) The court, finding that our ammunition laws discriminated against interstate commerce, enjoined enforcement of the laws to "permit out-of-state businesses to sell directly to California's residents." (*Id.* at pp. 885-86.) The Ninth Circuit Court of Appeals agreed to hear this case and, pending their decision, allowed those ammunition laws to go into effect. (*Rhode v. Bonta* (9th Cir. Feb. 5, 2024), Order Granting Stay No. 24-542.)

Given the similarity of certain aspects of this bill relative to our ammunition regulatory regime, should this bill become law it could soon face the same fate. Ultimately, however, whether this bill's provisions would violate the dormant Commerce Clause is unclear.

- 5) **Ease of Manufacture:** The author references the ghost gun threat in California and states that "this bill . . . seeks to prevent firearm assembly by those who are not legally authorized to possess them." It is unclear whether this is supported by research evidence. No data was located or provided that shows a link between subjecting the purchasers of firearm barrels to background checks and a reduction in the unlawful manufacture, possession, or use of ghost guns. Without more data, it is difficult to analyze the potential public safety implications in this section. There are, however, practical concerns that can be analyzed.

One argument made by the author is that ". . . one major firearm component, its barrel, is difficult to manufacture . . . These 3D-printed firearm barrels present unique challenges due to the extreme pressures of firing the cartridge." Various searches of different source types using different key word combinations yielded no peer-reviewed research squarely supporting this claim. Even anecdotally, the evidence is mixed.

In May 2020, more than five years ago, the barrel for a .22 AR-style pistol was printed successfully from polymer and one tester fired 65 shots, with the last 45 rounds fired in rapid

succession.²⁷ The article did note, “[T]he effectiveness and durability of entirely-polymer rifling remains a trickier challenge to overcome,” but also pointed to viable alternative processes for Do-It Yourself (DIY) firearm manufacturing.²⁸ This suggests some evidence that five years ago firearm barrels were uniquely difficult to manufacture, but also that numerous options remained available.

In one study, where a primary aim was to conduct experiments with various models of fully 3-D Printed (F3DP) firearms to examine the functionality and reliability of these arms, six separate fully-printed models (including the barrels) were manufactured from polymer and all six successfully discharged at least one round.²⁹ Some of the firearms remained intact following discharge, though two of the six firearms developed broken barrels.³⁰ The other four all developed some issue after firing, too.³¹ A designer of F3DP firearms cited by the study warned against using polymer material to print the firearms, “especially the barrel.”³² This certainly shows some evidence for barrels being uniquely difficult to manufacture, especially when printed using polymer, but the research did not establish any firm conclusions.

In an example showing the ease of manufacturing a ghost gun in 2025, a reporter successfully built a replica of the gun used by Luigi Mangione in the killing of health care CEO Brian Thompson.³³ As the article noted, “[T]he 3D printing . . . was the easy part.”³⁴ To legally build the replica firearm, the author had to spend approximately \$1,150, travel out of state, expend efforts to secure the services of a dealer with a specialty FFL and an expert in 3D printing firearms parts, locate and access reliable software, and spend two days to build the printable parts (other parts were purchased online and shipped to the printing site).³⁵ Before use, the author was warned that the firearm might not be reliable.³⁶ To avoid damage to himself, the reporter shot the gun from his hip.³⁷ The firearm malfunctioned and became unusable after discharging two rounds.³⁸ This suggests some evidence that firearm barrels may be uniquely difficult to manufacture, but the story did not highlight the barrel specifically and instead focused on both the relative ease of printing the firearm and the myriad issues associated with creating an operational finished product.

- 6) **Avoiding NICS:** This bill proposes a background check system for purchase of firearm barrels. Existing California law requires that DOJ participate in NICS, which is the backbone of California’s background check system for firearms. (Pen. Code, § 28220.) Background

²⁷ Hays, *Polymer 3D-printed Barrel Successfully Tested* (May 28, 2020) Armament Research Services <<https://armamentresearch.com/polymer-3d-printed-barrel-successfully-tested/>> [as of June 24, 2025].

²⁸ *Ibid.*

²⁹ Szwed, et al., *Was a 3D-printed Firearm Discharged? Study of Traces Produced by the use of Six Fully 3D-printed Firearms* (July 2023) Forensic Science International <<https://www.sciencedirect.com/science/article/pii/S037907382300186X#bib2>> [as of June 24, 2025].

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

³³ Greenberg, Andy, *We Made Luigi Mangione’s 3D-Printed Gun-and Fired It* (May 19, 2025) Wired <<https://www.wired.com/story/luigi-mangione-ghost-gun-built-tested/>> [as of June 19, 2025].

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

checks through NICS involve licensed dealers querying the NICS database via the DOJ, which acts as an official, designated point of contact (POC).³⁹ States that participate in NICS are required to adhere to a strict set of federal regulations, including a requirement that FFLs only initiate a background check in connection with a proposed firearm transfer, and for no other purpose. (28 C.F.R. § 25.6(a) (2025).)

“Misuse or unauthorized access includes, but is not limited to, the following: State or local agencies, FFLs, or individuals purposefully using the system to perform a check for unauthorized purposes.” (28 C.F.R. § 25.11(b)(2) (2025).) Federal regulations provide that state or local agencies that violate these rules are subject to a \$10,000 fine and cancellation of NICS inquiry privileges. (28 C.F.R. § 25.11(a) (2025).) Since firearm barrels are not “firearms,” running NICS background checks for purchasers or transferees of firearm barrels likely would qualify as misuse of the NICS system.

This bill seems to steer away from use of the NICS system to do background checks for those purchasing firearm barrels. Considering the extraordinary public safety importance of NICS access, and the pronounced risk of access loss under the current federal administration, it is essential that use of the NICS system be not in any way implicated in this bill.

- 7) **Committee Amendments:** The proposed amendments to this bill would reduce and realign the penalties for violations of the bill. The amendments would change the penalties for violations of the bill to the following:
- a) A first violation of subdivision (a) shall be punishable as a misdemeanor by up to six months in county jail, by a \$1,000 fine, or by both.
 - b) A second violation of subdivision (a) shall be punishable as a misdemeanor by up to one year in jail and by a fine of \$1,000.
 - c) A third violation of subdivision (a), and any subsequent violation thereafter of subdivision (a), shall be imprisonment in a county jail not exceeding one year, by imprisonment in county jail for 16 months, two years, or three years, or by a fine of up to \$2,000, or by both that fine and imprisonment.
- 8) **Argument in Support:** According to the *City of Alameda*, “Firearm barrels, especially those that can be used to convert pistols into more lethal or untraceable weapons, are currently sold without oversight, by mail or online, without background checks or transaction records. Unregulated parts like barrels enable the assembly of “ghost guns,” weapons without serial numbers that evade tracing, posing a significant threat to public safety.

“SB 704 addresses all off these issues. Specifically, this bill ensures that all barrel transfers are conducted through licensed firearm dealers, in-person, and with a background check requirement to help deter illicit access to these firearm barrels. Additionally, the record-keeping provisions in this bill will establish accountability and aid law enforcement with investigations into firearm misuse. By mandating that these transactions flow through

³⁹ *National Instant Criminal Background Check System 2022 Operational Report* (2022) U.S. Department of Justice <<https://ucr.fbi.gov/nics/reports/active-records-in-the-nics-index-by-state>> [as of June 19, 2025].

licensed dealers, SB 704 improves the traceability of firearm parts and complements existing gun control measures—supporting safer, more secure communities.

“The City of Alameda supports gun safety and common-sense gun laws and policies that keep guns out of the wrong hands, including expanded background check requirements. For these reasons, we are pleased to support SB 704 and respectfully ask for your “AYE” vote when this measure comes before you.”

- 9) **Argument in Opposition:** According to *Gun Owners of America*, “On behalf of Gun Owners of California, I am writing in my continued strong opposition to SB 704, which would require all sales/transfers of firearm barrels to be processed through a licensed dealer, complete with background checks and entry into state databases. California already enforces some of the strictest gun laws in the country—including background checks for every firearm purchase. Adding barrels to this process is unnecessary, duplicative, and targets the wrong people. Criminals aren't walking into gun stores and asking for serialized barrels. This bill burdens only the law-abiding.

“A firearm barrel is an essential component of a firearm, and as such, is protected under the Second Amendment. The continued scrutiny and regulation of individual gun parts—like barrels, springs, and pins—is not about safety. It’s about creating a slow, bureaucratic stranglehold on gun ownership by regulating every possible aspect of a constitutionally protected right. If someone already owns a legally purchased, registered firearm, there is no legitimate safety interest in requiring them to undergo another background check just to replace or upgrade a barrel.

“Worse yet, this bill proposes a penalty of up to \$10,000 and a year in jail for violating its terms—an absurd and excessive punishment for something as simple as acquiring a piece of metal tubing that only functions when paired with a firearm already subject to full regulation. SB 704 is not about safety; it’s about harassment and intimidation of lawful gun owners through regulatory overkill. We urge you to refocus legislative energy on real solutions to violent crime—not the micromanagement of constitutionally protected tools.”

10) Related Legislation:

- a) SB 15 (Blakespear) would authorize DOJ to remove a person from the centralized list who has willfully failed to comply with specified licensing requirements or who, among other things, failed to remedy violations discovered as a result of an inspection within 90 days of the inspection. SB 15 was held in suspense in the Senate Appropriations Committee.
- b) SB 320 (Limon) would require DOJ to develop and launch a system to allow a person who resides in California to voluntarily add their own name to, and subsequently remove their own name from, the California Do Not Sell List, to prevent the sale or transfer of a firearm to a person who adds their name. SB 320 was held in suspense in the Senate Appropriations Committee.
- c) AB 1092 (Castillo) would extend the concealed carry weapon license window from two to four years, beginning on January 1, 2027. AB 1092 failed passage in this committee.

11) Prior Legislation:

- a) SB 899 (Skinner), Chapter 544, Statutes of 2024, required the court, when issuing protective orders, to provide to the person subject to the order how any firearms or ammunition still in their possession need to be relinquished.
- b) AB 1133 (Schiavo), of the 2023-2024 Legislative Session, would have required DOJ to develop, evaluate, update, maintain, and publish a standardized curricula for a license to carry a concealed firearm. AB 1133 was held in suspense in the Senate Appropriations Committee.
- c) SB 715 (Portantino), Chapter 250, Statutes of 2021, amended the available exceptions to include new requirements for loans based upon the type of firearm and the age of the minor. This bill also prohibits the dealer from returning a firearm to the person making the sale, transfer, or loan, if that person was prohibited from obtaining a firearm.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady California
Brady Campaign
Brady United Against Gun Violence
City of Alameda
City of Santa Rosa
Everytown for Gun Safety Action Fund
Giffords Law Center to Prevent Gun Violence
Oakland; City of
San Diegans for Gun Violence Prevention
San Francisco City Attorney's Office (UNREG)

Oppose

ACLU California Action
California Rifle and Pistol Association, INC.
Gun Owners of California, INC.
Libertarian Party of Fresno County
1 private individual

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