



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

Date Introduced:	02/17/06	Bill No:	AB 2096
Tax:	Sales Tax	Author:	Parra
Related Bills:	SB 2111 (Haynes)		

BILL SUMMARY

This bill would provide a sales and use tax exemption for the sale or purchase of a firearm safety device, gun safe, or long-gun safe, as defined.

ANALYSIS

Current Law

Under existing law, a sales tax is imposed on retailers for the privilege of selling tangible personal property in this state. The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased in this state. Either the sales tax or the use tax applies with respect to all retail sales and purchases of tangible personal property in this state, unless the sale and purchase is specifically exempted from tax. Currently, the Sales and Use Tax Law does not provide any sort of exemption for sales of firearm safety devices, gun safes, or long-gun safes.

Proposed Law

This bill would add Section 6380.5 to the Revenue and Taxation Code to provide a sales and use tax exemption for the sale or purchase of a firearm safety device, gun safe, or long-gun safe, as defined.

Firearm Safety Devices. The exemption references a firearm safety device as defined in subdivision (a) of Section 12087.6 of the Penal Code, which defines it as a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

This bill also requires that a firearm safety device meet either of the following conditions: 1) Is listed on the Department of Justice (DOJ) roster pursuant to Section 12088 of the Penal Code; or 2) Complies with the standards for firearm safety devices adopted pursuant to Section 12088.2 of the Penal Code. Section 12088 of the Penal Code requires the DOJ to maintain a roster listing all of the firearm safety devices that 1) have been tested by a certified testing laboratory, 2) have been determined to meet the DOJ's standards for firearms safety devices, and 3) may be sold in California. The roster must list the manufacturer, model number, and model name for each firearm safety device. Section 12088.2 of the Penal Code requires the DOJ to adopt regulations implementing the standards for firearm safety devices and gun safes with a final standard to be effective by January 1, 2002.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

There are currently 321 DOJ-approved firearm safety devices. A roster of these devices is posted on the DOJ website at <http://ag.ca.gov/firearms/devices.htm>.

Gun Safes and Long-Gun Safes. The exemption references a gun safe as defined in subdivision (b) of Section 12087.6 of the Penal Code, which defines them to mean a locking container that fully contains and secures one or more firearms.

A “long-gun safe” is defined in subdivision (c) of Section 12087.6 of the Penal Code to mean a locking container designed to fully contain and secure a rifle or a shotgun that has a locking system consisting of either a mechanical combination lock or an electronic combination lock that has at least 1,000 possible unique combinations consisting of a minimum of three numbers, letters, or symbols per combination.

Both a gun safe and long-gun safe must comply with the standards for gun safes adopted pursuant to Section 12088.2 of the Penal Code.

As a tax levy, the bill would become effective immediately upon enactment, but would become operative on January 1, 2007.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author. According to the author’s office, the enactment of the Aroner-Scott-Hayden Firearms Safety Device Act of 1999 provided, effective January 1, 2002, that no firearm may be sold, transferred, or manufactured within California unless that firearm is accompanied by a DOJ-approved firearms safety device. The author’s office notes that individuals of less socio-economic conditions want to protect themselves by purchasing a firearm but they are the ones that can least afford firearms, including firearm safety devices. In providing a tax exemption for the sale or purchase of a firearm safety device, these individuals will be better able to afford such items.
2. **Definition of firearm safety device needs clarifying for certain devices.** This bill provides that a firearm safety device may include a device that is installed on a firearm or incorporated into the design of the firearm. According to the DOJ, there are a few DOJ-approved devices that come preinstalled by the manufacturer. Regarding a device that is incorporated into the design of the firearm, this type of device involves a state-of-the-art technology where the device is activated by the firearm owner’s fingerprint.

To determine what portion of the sales price of the firearm includes the amount charged for the firearm safety device, it is recommended that the bill be amended to incorporate language that would require the gun dealer to separately state the amount charged for the exempt firearm safety device on the invoice or the receipt to the customer. Further, the bill should specify that if the amount is not separately stated, tax applies to the gross receipts from the sale of the firearm, including the firearm safety device. The definition needs clarifying to address those devices that are sold with the firearm but for which a portion should be exempted from the tax. Board staff is willing to work with the author’s office to draft amendments to address these issues.

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3. **Not all gun safes would be exempt.** A gun safe that is not certified as an Underwriters Laboratories (UL) Residential Security Container would not qualify for the exemption, as it does not meet the DOJ regulatory standards that is required under the provisions of this bill.

This bill exempts sales of gun safes as defined in subdivision (b) of Section 12087.6 of the Penal Code, which is a locking container that fully contains and secures one or more firearms, and that meets the standards for gun safes adopted pursuant to Section 12088.2 of the Penal Code.

Section 12088.2 of the Penal Code requires the DOJ to adopt regulations implementing the standards for gun safes. The DOJ has adopted such standards as set forth under California Code of Regulations, title 11, section (Regulation) 977.50. The requirements of Regulation 977.50 are posted on the DOJ's website at <http://ag.ca.gov/firearms/gunSAFE.htm>, under "Regulatory Gun Safe Standards." A gun safe is required to meet either one of two sets of standards. One of the standards is that a gun safe is able to fully contain firearms and provide for its storage, and is listed as an UL Residential Security Container.

Accordingly, to qualify for the proposed exemption in this bill, a gun safe would need to be certified as an UL Residential Security Container.

4. **Proposed exemption would apply to safes used for purposes other than securing guns.** There are safes designed to store and protect valuables such as important documents and jewelry that are certified as an UL Residential Security Container. For example, Liberty designs safes for guns, and home or office use. One of its safes, the Centurion, is marketed as a safe for storing valuables such as important documents. All Liberty safes, including the Centurion, are certified as an UL Residential Security Container. For purposes of the exemption, any safe that can fully contain and secure one or more firearms and is certified as an UL Residential Security Container, meets the DOJ regulatory standards and would qualify for the proposed exemption in this bill.
5. **Related Legislation.** Assembly Bill 2111 (Haynes) is identical to this bill.

COST ESTIMATE

The Board would incur some costs in notifying affected taxpayers, revising manuals and publications, and answering inquiries from industry and the public. A detailed cost estimate is pending.

REVENUE ESTIMATE

This bill would exempt from the sales and use tax the sale or storage, use or other consumption in California of "a firearm safety device, gun safe, or long-gun safe," as defined.

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Background, Methodology, and Assumptions

Under current law, all firearms sold or transferred by a licensed firearms dealer must include or be accompanied by a firearms safety device that has been approved by the California DOJ. A “firearms safety device” is defined as a device, other than a gun safe, that locks and is designed to prevent children and other restricted individuals from using the firearm. A “gun safe” is a locking container that secures one or more firearms and meets DOJ standards. A “long-gun safe” is an approved locking container intended to secure a rifle. When the buyer takes possession of the handgun, it must come with a DOJ approved firearm safety device or the buyer must provide a receipt for an approved firearm safety device or gun safe purchased within the past 30 days. The cost of a DOJ approved firearm safety device is approximately \$10.

DOJ data on hand gun sales suggest that about 158,300 handguns will be sold in California during the 2007 calendar year. This is the annual average number of handguns sold in the state over the past six years (i.e., 2000 through 2005). DOJ assumes from data collected that there is a one-to-one ratio between the number of handguns purchased and the number of firearm safety devices sold. The average cost of a firearm safety device is about \$10. The total state and local sales and use tax exemption for handguns for 2007 would be approximately \$126,000 ($158,300 \times \$10 \times 0.0793 = \$126,000$). Averaging DOJ data over the past several years indicate that about 179,600 long guns will be sold in the state in 2007. The sales tax exemption of firearm safety devices for these guns are estimated to be approximately \$142,000 ($179,600 \times \$10 \times 0.0793 = \$142,000$).

Based on industry data, we estimate that approximately 14,400 long gun safes will be sold in California in 2007. The cost of a long gun safe on average is about \$1,300. Therefore, the annual tax exemption from the sale of DOJ approved long gun safes is estimated to be \$1,484,000 ($14,400 \times \$1,300 \times 0.0793 = \$1,484,000$). Historical data indicates that sales of handgun safes represent about 10 percent of handgun sales. The average price for handgun safes is approximately \$110. The estimated annual, statewide tax exemption from the sale of handgun safes is expected to be \$138,000 in 2007 ($158,300 \times 0.10 \times \$110 \times 0.0793 = \$138,000$).

The expected total tax exemption for both firearm safety devices and gun safes in California is estimated to be about \$1.9 million ($\$126,000 + \$142,000 + \$1,484,000 + \$138,000 = \$1,890,000$).

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Revenue Summary

The revenue impact of the exemption of the state and local sales and use tax from the sale of firearm safety devices and gun safes is \$1.9 million.

	<u>Revenue Loss</u>
State (5.25%)	\$1.2 million
Local (2.0%)	0.5 million
District (.68%)	0.2 million
	<u>\$1.9 million</u>

Analysis prepared by:	Debra Waltz	916-324-1890	03/15/06
Revenue estimate by:	Bill Benson	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

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