

## Assembly Bill No. 28

### CHAPTER 231

An act to amend Sections 26700, 26705, and 30395 of, and to add Chapter 3 (commencing with Section 34400) to Division 12 of Title 4 of Part 6 of, the Penal Code, and to add Part 16 (commencing with Section 36001) to Division 2 of the Revenue and Taxation Code, relating to firearms, and making an appropriation therefor.

[Approved by Governor September 26, 2023. Filed with  
Secretary of State September 26, 2023.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 28, Gabriel. Firearms and ammunition: excise tax.

Existing law establishes the California Violence Intervention and Prevention (CalVIP) Grant Program, administered by the Board of State and Community Corrections, to award competitive grants for the purpose of violence intervention and prevention.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill, the Gun Violence Prevention and School Safety Act, would, commencing July 1, 2024, impose an excise tax in the amount of 11% of the gross receipts from the retail sale in this state of a firearm, firearm precursor part, and ammunition, as specified. The tax would be collected by the state pursuant to the Fee Collection Procedures Law. The bill would require that the revenues collected be deposited in the Gun Violence Prevention and School Safety Fund, which the bill would establish in the State Treasury. The bill would require the moneys received in the fund to be used to fund various gun violence prevention, education, research, response, and investigation programs, as specified. The bill would require the Director of Finance to transfer, as a loan, \$2,400,000 from the General Fund to the California Department of Tax and Fee Administration to implement these provisions, as specified. The bill would require each licensed firearms dealer, firearms manufacturer, and ammunition vendor to register with the department for a certificate, as specified. The bill would also provide procedures for the issuance, revocation, and reinstatement of a permit.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as the Gun Violence Prevention and School Safety Act.

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) Gun violence is a public health and safety crisis nationwide. Firearms are now the leading cause of death for American children. California's gun death rates are substantially lower than the national average, yet firearms remain a leading cause of death, injury, and trauma for young people and especially young people of color in this state.

(b) Gun violence also contributes to significant racial and socioeconomic inequality in safety. The most recent available data from the federal Centers for Disease Control and Prevention (CDC) indicates that in 2021, nationwide, the parents of a Black son 13 to 19 years of age were more likely to lose their child to gun homicide than every other cause of death combined.

(c) A majority of gun assault victims survive the shooting but are often left to grapple with severe physical and mental injuries and long-term expenses, impairments, and pain. People who have been direct victims of violence are at substantially higher risk of being violently reattacked or killed, in part because a large majority of nonfatal shootings do not lead to arrest. Strained by the overwhelming number of shootings and related challenges, law enforcement agencies across the United States cleared less than one-third of aggravated assaults with firearms in 2019. Victims who have been shot, shot at, or chronically exposed to threats of gun violence and associated traumas may seek safety by affiliating with armed groups or engaging in retaliatory violence themselves.

(d) Gun violence imposes enormous harms on those who are not direct victims as well. The Director of the CDC's Division of Violence Prevention presented research to Congress demonstrating that "youth living in inner cities show a higher prevalence of post-traumatic stress disorder than soldiers" in the nation's wartime military. Many studies have documented how witnessing a shooting or being chronically exposed to gun violence is correlated with increased risk of negative health outcomes, criminal system involvement, reduced educational engagement and achievement, and longer term negative impacts on workforce potential and earnings.

(e) The CDC notes that “Community violence can cause significant physical injuries and mental health conditions such as depression, anxiety, and post-traumatic stress disorder (PTSD). Living in a community experiencing violence is also associated with increased risk of developing chronic diseases. Concerns about violence may prevent some people from engaging in healthy behaviors, such as walking, bicycling, using parks and recreational spaces, and accessing healthy food outlets. Violence scares people out of participating in neighborhood activities, limits business growth and prosperity, strains education, justice, and medical systems, and slows community progress.”

(f) In addition to its enormous human toll, gun violence also causes economic harm in impacted communities and imposes enormous fiscal burdens on state and local governments and taxpayers. A report from the National Institute for Criminal Justice Reform in 2020 determined that each firearm homicide in Stockton, California cost taxpayers at least \$2,500,000 in direct government costs such as medical, law enforcement, court expenses, and lost tax revenue; nonfatal shootings with a single suspect were also estimated to cost taxpayers nearly \$1,000,000 on average. A 2021 report by Everytown for Gun Safety found that gun deaths and injuries cost California \$22.6 billion annually, of which \$1.2 billion is paid by taxpayers every year. Gun violence also imposes broader indirect costs in the form of reduced home values and reduced profitability for local businesses. A report by the Urban Institute found that each additional homicide in a census tract in Oakland, California was “significantly associated with five fewer job opportunities among contracting businesses (businesses losing employees) the next year.”

(g) The firearm industry has also enjoyed record growth and profits for years. A 2020 Economic Impact Report by the firearm industry trade association, the National Shooting Sports Foundation (NSSF), noted that “the economic growth that America’s firearm and ammunition industry has experienced in recent years has been nothing short of remarkable.” A 2022 NSSF Economic Impact Report said the same thing, and documented a 269-percent increase in the firearm and ammunition industry’s estimated economic impact from 2008 to 2021 and an 11-percent increase from 2020 to 2021 alone.

(h) There has also been an unprecedented spike in shootings and gun homicides across the United States and California. According to CDC data from 2011 to 2021, the nationwide firearm homicide rate increased 85 percent.

(i) Firearms and ammunition sold by licensed manufacturers, dealers, and vendors of these products contribute to gun violence and broader harms. Gun dealers, for example, are the leading source of firearms trafficked to illegal markets, often through straw purchases, as well as negligent losses.

(j) The excise tax on firearm and ammunition retailers proposed in this act is analogous to longstanding federal law, which has, since 1919, placed a 10-percent to 11-percent excise tax on the sale of firearms and ammunition by manufacturers, producers, and importers. Revenues from this excise tax

have been used, since passage of the Pittman-Robertson Federal Aid in Wildlife Restoration Act in 1937, to fund wildlife conservation efforts that remediate the effects that firearms and ammunition have on wildlife populations through game hunting, particularly through grants to state wildlife agencies, and for conservation-related research, technical assistance, hunter safety, and “hunter development.”

(k) This act will similarly place a reasonable surtax on firearm and ammunition industry members profiting from the sale of firearms and ammunition in order to generate sustained revenue for programs that are designed to remediate the devastating effects these products cause families and communities across this state.

(l) The National Rifle Association has referred to the Pittman-Robertson federal Firearms and Ammunition Excise tax as a “legislative model” and “friend of the hunter,” and NSSF has repeatedly emphasized the importance of this federal firearm industry excise tax as well. A 2019 statement by an NSSF director published on NSSF’s internet website emphasized that “an often overlooked, and certainly under-communicated benefit, is the impact that excise taxes on firearms and ammunition have on conservation and wildlife populations,” and a similar 2018 statement from NSSF praised Key Pittman and Willis Robertson, the legislators who sponsored the Pittman-Robertson excise tax, as “heroes of the most successful conservation model in the world.”

(m) This act would similarly provide dedicated revenue to sustain and expand effective gun violence prevention, healing, and recovery programs for families and communities across California, particularly in communities most disproportionately impacted by gun violence.

(n) This act is consistent with our nation’s longstanding historical tradition of regulating commercial firearm and ammunition manufacturers and sellers, including through federal, state, and local taxes on this commercial activity. An 1883 California statute, for instance, directed local governments to provide for payment of all revenue assessed as a tax, or received for licenses, on the storage, manufacture, and sale of gunpowder and related products in order to fund a “Fireman’s Charitable Fund” to support professionals tasked with remediating the collateral impacts of firearm-related commercial activity on public safety through fire risk.

(o) In the historical record, other states, including Mississippi (1844), North Carolina (1857), Georgia (1866), Alabama (1867), Hawaii (1870), Nebraska (1895), Florida (1898), Wyoming (1899), and Virginia (1926), have similarly enacted longstanding commercial, occupational, or other taxes on those selling, purchasing, or possessing firearms and other dangerous weapons.

(p) The tax specified in this act is a modest and reasonable tax on a profitable industry whose lawful and legitimate business activity imposes substantial harmful externalities on California’s families, communities, and taxpayers. The modest tax proposed in this measure mirrors the Pittman-Robertson federal excise tax on firearm and ammunition industry participants, is similarly dedicated to funding programs to remediate the

harmful externalities of firearm industry commerce, and is similarly unlikely to discourage lawful sales and commerce in firearms or ammunition. A gun policy research review by the Rand Corporation noted that the available “research suggests that moderate tax increases on guns or ammunition would do little to disrupt hunting or recreational gun use.”

(q) The revenue from this act would provide sustained, dedicated investments in programs that are effective at addressing and remediating harms caused by firearm and ammunition industry products, including investments in: (1) community gun violence intervention and prevention initiatives that help address risk factors for violent behavior, protect and heal victims, interrupt cycles of shootings, trauma, and retaliation among those at highest risk, and address racial inequality in access to safety for communities of color; (2) gun violence research that helps stakeholders identify leading causes and evidence-based responses to gun violence; (3) initiatives that train health care providers about effective clinical tools for preventing firearm suicide and injury; (4) crime victim services, including mental health services, for victims of mass shootings and other gun homicides, and individuals chronically exposed to gun violence in their community, including students in school districts disproportionately impacted by gun violence in the school or broader community; (5) coordinated efforts to ensure firearm and ammunition purchasers are adequately informed about how to comply with California’s gun safety laws and responsibilities associated with safe use and possession of firearms, including child access prevention, and to promote effective and equitable implementation of California’s gun safety laws and programs; (6) programs that promote victims’ and public safety by ensuring the prompt, safe, and consistent removal of firearms and ammunition from people who become prohibited from possessing them, such as after a gun violence or domestic violence restraining order; and (7) evidence-based activities to effectively and equitably support gun homicide and shooting investigations in order to deliver justice for victims of gun violence in communities bearing the brunt of these tragedies.

(r) In a report published in August 2023 by the American Academy of Pediatrics, researchers found that the increase in firearm purchasing during the pandemic increased the risk for pediatric firearm injury, resulting in a 41.6-percent increase in the firearm death rate for American children between 2018 and 2021. During this period, racial disparities in gun deaths also significantly worsened. According to the report, communities of color bore the brunt of this burden, with Black children comprising nearly 50 percent of children killed by firearms. Unlike other age demographics in the United States, nearly two-thirds of youth gun deaths were attributable to homicide, while less than one-third are attributed to death by firearm suicide. State variability in access to preventative strategies like violence intervention, suicide prevention, and firearm safety programs all contribute to disparities in pediatric firearm death rates. With this legislation, California affirms its commitment to increasing access to these vital preventative strategies, particularly in our state’s most vulnerable communities.

(s) The Legislature hereby adopts this act for the purpose of reducing and preventing gun violence, including by addressing risk factors for gun violence, and promoting healing and recovery for victims of gun violence, particularly in communities that are disproportionately impacted by shootings and gun homicides.

[Sections 3 through 6 omitted.]

36005. (a) There is hereby established in the State Treasury the Gun Violence Prevention and School Safety Fund to receive moneys pursuant to Section 36041.

(b) All moneys in the Gun Violence Prevention and School Safety Fund, including interest or dividends earned by the fund, shall be distributed annually in accordance with the allocation formula provided in subdivision (c), provided that the dollar amounts specified in that subdivision shall be annually adjusted to account for changes in the California Consumer Price Index.

(c) Moneys in the Gun Violence Prevention and School Safety Fund shall be annually allocated in the following order:

(1) The first seventy-five million dollars (\$75,000,000) available in the fund, or as much of that amount as is available, shall be continuously appropriated annually to the Board of State and Community Corrections, or other successor agency designated by law as the administering agency for the California Violence Intervention and Prevention (CalVIP) Grant Program, to fund CalVIP Grants and administration and evaluations of CalVIP-supported programs, in accordance with Title 10.2 (commencing with Section 14130) of Part 4 of the Penal Code.

(2) The next fifty million dollars (\$50,000,000) available in the fund, or as much of that amount as is available, if any, shall, upon appropriation by the Legislature, be annually allocated to the State Department of Education to enhance school safety by addressing risk factors for gun violence affecting pupils in kindergarten through grade 12, through the funding of related measures, including, without limitation, the measures described in subparagraphs (A) to (D), inclusive. The department may utilize these funds to support both activities conducted directly by the department and those conducted through contracts with, or grants to, other entities.

(A) Physical security improvements.

(B) Physical safety assessments.

(C) School-based or school-linked mental health and behavioral services, including training for teachers and employees.

(D) Before school and after school programs for at-risk pupils, including programs offered by entities eligible to receive funding under the Bipartisan Safer Communities Act Stronger Connections Grant Program.

(3) The next fifteen million dollars (\$15,000,000) available in the fund, or as much of that amount as is available, if any, shall, upon appropriation by the Legislature, be annually allocated to the Judicial Council to support a court-based firearm relinquishment grant program to be administered in coordination with the Department of Justice to ensure the prompt, consistent, and safe removal of firearms by the Department of Justice and local law enforcement agencies from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to a criminal conviction or other criminal or civil court order, including, but not limited to, criminal protective orders, domestic violence restraining orders, gun violence restraining orders, civil harassment restraining orders, and workplace violence restraining orders. The grant program shall be designed to reduce the number of people who are entered into or remain in the Armed Prohibited Persons System, including by supporting partnerships with courts and local law enforcement agencies.

(4) The next fifteen million dollars (\$15,000,000) available in the fund, or as much of that amount as is available, if any, shall, upon appropriation by the Legislature, be annually allocated to the Department of Justice to fund a victims of gun violence grant program. The purpose of this program is to support evidence-based activities to equitably improve investigations and clearance rates in firearm homicide and firearm assault investigations in communities disproportionately impacted by firearm homicides and firearm assaults, and thereby help reduce gun violence in communities across California. Grants from this program shall be made on a competitive basis to state, local, or tribal law enforcement agencies and prosecuting offices for activities that have the specific objective of increasing clearance rates for firearm homicides and nonfatal shootings, which may include, without limitation, hiring and training detectives dedicated to investigating these offenses, hiring and training personnel or other partners to coordinate with victims and witnesses or to collect, process, and test relevant evidence, improving data analysis, forensics, and technological capacities, and promoting recurring and trauma-informed engagement with victims, witnesses, and other impacted community members in a manner that builds trust, safety, and collaboration.

(5) The next two million five hundred thousand dollars (\$2,500,000) available in the fund per year, or as much of that amount as is available, if any, shall, upon appropriation by the Legislature, be annually allocated to the Department of Justice to support activities to inform firearm and ammunition purchasers and firearm owners about gun safety laws and responsibilities, such as safe firearm storage, and to promote implementation and coordination of gun violence prevention efforts through activities such as technical assistance, training, capacity building, and local gun violence data and problem analysis support for local governments, law enforcement agencies, community-based service providers, and other stakeholders. The department may utilize these funds to support activities conducted directly by the department or conducted through contracts with, or grants to, other entities.



(6) The next two million five hundred thousand dollars (\$2,500,000) available in the fund, or as much of that amount as is available, if any, shall, upon appropriation by the Legislature, be annually allocated to the Office of Emergency Services to provide counseling and trauma-informed support services to direct and secondary victims of mass shootings and other gun homicides and to individuals who have experienced chronic exposure to community gun violence. The office may utilize these funds to support activities directly conducted by the office, or conducted through contracts with, or grants to, other entities, and to help reduce gun violence in communities across California.

(7) The next one million dollars (\$1,000,000) available in the fund, or as much of that amount as is available, if any, shall, upon appropriation by the Legislature, be allocated to the University of California, Davis, California Firearm Violence Research Center, if those funds are accepted by the Regents of the University of California, for a one-time grant for gun violence research and initiatives to educate health care providers and other stakeholders about clinical tools and other interventions for preventing firearm suicide and injury. This allocation may, if sufficient funds are not available, be made over the course of more than one budget year; however, the total amount allocated pursuant to this paragraph across all years shall not exceed one million dollars (\$1,000,000).

(d) Any remaining moneys available in the fund each year after the allocations described in subdivision (c) shall, upon appropriation by the Legislature, be allocated to fund and support activities and programs focused on preventing gun violence, supporting victims of gun violence, and otherwise remediating the harmful effects of gun violence.

(e) Except as otherwise provided herein or in any other provision of law, a department or agency may reserve up to 5 percent of the funds appropriated to that department or agency under subdivision (c) for the costs of administering and promoting the effectiveness of programs supported by this act, including, without limitation, costs to employ personnel, develop and review grant solicitations, publicize grant opportunities, engage with and provide technical assistance to prospective grant applicants and grantees, and conduct or support data collection or research evaluations.

[Remainder of AB 28 omitted.]