



Sen. Dan Kotowski

Filed: 4/15/2013

09800SB1255sam001

LRB098 08773 RLC 44520 a

1 AMENDMENT TO SENATE BILL 1255

2 AMENDMENT NO. _____. Amend Senate Bill 1255 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Unsafe Handgun Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Department" means the Department of State Police.

8 "Director" means the Director of State Police.

9 "Firearm" has the meaning provided in Section 1.1 of the
10 Firearm Owners Identification Card Act.

11 "Firing requirement for handguns" means a test fulfilling
12 the requirements of Section 15 in which the manufacturer
13 provides 3 handguns of the make and model for which
14 certification is sought to an independent testing laboratory
15 certified by the Director under Section 35.

16 "Handgun" means any firearm, including, but not limited to,

1 a pistol or a revolver, capable of being concealed upon the
2 person.

3 "Magazine disconnect mechanism" means a mechanism that
4 prevents a semiautomatic pistol that has a detachable magazine
5 from operating to strike the primer of ammunition in the firing
6 chamber when a detachable magazine is not inserted in the
7 semiautomatic pistol.

8 "Pistol" means any handgun that is not a revolver.

9 "Revolver" means a handgun that has a rotating cylinder
10 containing multiple chambers for loading and firing
11 ammunition.

12

13 Section 10. Drop safety requirement for handguns. At the
14 conclusion of the firing requirements for handguns described in
15 Section 15, the same certified independent testing laboratory
16 shall subject the same 3 handguns of the make and model for
17 which certification is sought, to the following test:

18 (1) A primed case (no powder or projectile) shall be
19 inserted into the chamber. For a pistol, the slide shall be
20 released, allowing it to move forward under the impetus of the
21 recoil spring, and an empty magazine shall be inserted. For
22 both a pistol and a revolver, the weapon shall be placed in a
23 drop fixture capable of dropping the pistol from a drop height
24 of 1 meter + 1 centimeter (39.4 + 0.4 inches) onto the largest
25 side of a slab of solid concrete having minimum dimensions of

1 7.5 x 15 x 15 centimeters (3 x 6 x 6 inches). The drop distance
2 shall be measured from the lowermost portion of the weapon to
3 the top surface of the slab. The weapon shall be dropped from a
4 fixture and not from the hand. The weapon shall be dropped in
5 the condition that it would be in if it were dropped from a
6 hand (cocked with no manual safety applied). If the pistol is
7 designed so that upon leaving the hand a "safety" is
8 automatically applied by the pistol, this feature shall not be
9 defeated. An approved drop fixture is a short piece of string
10 with the weapon attached at one end and the other end held in
11 an air vise until the drop is initiated.

12 (2) The following 6 drops shall be performed:

13 (A) Normal firing position with barrel horizontal.

14 (B) Upside down with barrel horizontal.

15 (C) On grip with barrel vertical.

16 (D) On muzzle with barrel vertical.

17 (E) On either side with barrel horizontal.

18 (F) If there is an exposed hammer or striker, on the
19 rearmost point of that device, otherwise on the rearmost
20 point of the weapon.

21 (3) The primer shall be examined for indentations after
22 each drop. If indentations are present, a fresh primed case
23 shall be used for the next drop.

24 (4) The make and model of handgun shall pass this test if
25 each of the 3 test guns does not fire the primer.

1 Section 15. Firing requirement for handguns.

2 (a) The handguns of the make and model for which
3 certification is sought, and which are to be tested under this
4 Section, may not be refined or modified in any way from those
5 that would be made available for retail sale if certification
6 is granted. The magazines of a tested handgun shall be
7 identical to those that would be provided with the handgun to a
8 retail customer.

9 (b) The firing requirement for handguns test shall be
10 conducted as follows:

11 (1) The laboratory shall fire 600 rounds from each gun,
12 stopping after each series of 50 rounds has been fired for
13 5 to 10 minutes to allow the weapon to cool, stopping after
14 each series of 100 rounds has been fired to tighten any
15 loose screws and clean the gun in accordance with the
16 manufacturer's instructions, and stopping as needed to
17 refill the empty magazine or cylinder to capacity before
18 continuing.

19 (2) The ammunition used shall be of the type
20 recommended by the handgun manufacturer in the user manual,
21 or if none is recommended, any standard ammunition of the
22 correct caliber in new condition that is commercially
23 available.

24 (c) A handgun shall pass this test if each of the 3 test
25 guns meets both of the following:

26 (1) Fires the first 20 rounds without a malfunction

1 that is not due to ammunition that fails to detonate.

2 (2) Fires the full 600 rounds with no more than 6
3 malfunctions that are not due to ammunition that fails to
4 detonate and without any crack or breakage of an operating
5 part of the handgun that increases the risk of injury to
6 the user.

7 (d) If a handgun fails the requirements of either paragraph
8 (1) or (2) of subsection (c) of this Section due to ammunition
9 that fails to detonate, the handgun shall be retested from the
10 beginning of the "firing requirement for handguns" test. A new
11 model of the handgun that failed the test due to ammunition
12 that fails to detonate may be submitted for the test to replace
13 the handgun that failed.

14 (e) As used in this Section, "malfunction" means a failure
15 to properly feed, fire, or eject a round, or failure of a
16 handgun to accept or eject the magazine, or failure of a
17 handgun's slide to remain open after the magazine has been
18 expended.

19 Section 20. Unsafe handguns. Any handgun is an unsafe
20 handgun when any of the following is true:

21 (a) For a revolver:

22 (1) It does not have a safety device that, either
23 automatically in the case of a double-action firing
24 mechanism, or by manual operation in the case of a
25 single-action firing mechanism, causes the hammer to

1 retract to a point where the firing pin does not rest upon
2 the primer of the cartridge.

3 (2) It does not meet the firing requirement for
4 handguns.

5 (3) It does not meet the drop safety requirement for
6 handguns.

7 (b) For a pistol:

8 (1) It does not have a positive manually operated
9 safety device, as determined by standards relating to
10 imported guns adopted by the federal Bureau of Alcohol,
11 Tobacco, Firearms and Explosives.

12 (2) It does not meet the firing requirement for
13 handguns.

14 (3) It does not meet the drop safety requirement for
15 handguns.

16 (4) For all center fire semiautomatic pistols, it does
17 not have a chamber load indicator and, if it has a
18 detachable magazine, a magazine disconnect mechanism.

19 (5) For all rimfire semiautomatic pistols, it does not
20 have a magazine disconnect mechanism, if it has a
21 detachable magazine.

22 Section 25. Penalty; exceptions.

23 (a) Commencing January 1, 2015, any person in this State
24 who manufactures or causes to be manufactured, imports into the
25 State for sale, keeps for sale, offers or exposes for sale,

1 gives, or lends any unsafe handgun shall be guilty of a petty
2 offense for a first violation, a Class A misdemeanor for a
3 second violation, and Class 4 felony for a third or subsequent
4 violation.

5 (b) This Section shall not apply to any of the following:

6 (1) The manufacture in this State, or importation into
7 this State, of any prototype handgun, when the manufacture
8 or importation is for the sole purpose of allowing an
9 independent laboratory certified by the Department under
10 Section 35 to conduct an independent test to determine
11 whether that handgun is prohibited by this Act, and, if
12 not, allowing the Department to add the firearm to the
13 roster of handguns that may be sold in this State under
14 Section 40.

15 (2) The importation or lending of a handgun by
16 employees or authorized agents of entities determining
17 whether the weapon is prohibited by this Section.

18 (3) Firearms listed as curios or relics, as defined in
19 Section 478.11 of Title 27 of the Code of Federal
20 Regulations.

21 (4) The sale or purchase of any handgun, if the handgun
22 is sold to, or purchased by, any federal, State or local
23 law enforcement agency, any State's Attorney's office, or
24 the armed forces of this State or of the United States for
25 use in the discharge of their official duties. Nor shall
26 anything in this Section prohibit the sale to, or purchase

1 by, sworn members of these agencies of any handgun.

2 (c) Violations of subsection (a) of this Section are
3 cumulative with respect to each handgun and shall not be
4 construed as restricting the application of any other law.

5 Section 30. Certification by manufacturers and sellers
6 that handguns are not unsafe.

7 (a) Every person who is licensed as a manufacturer of
8 firearms under Chapter 44 (commencing with Section 921) of
9 Title 18 of the United States Code and who manufactures
10 firearms in this State shall certify under penalty of perjury
11 and any other remedy provided by law that every model, kind,
12 class, style, or type of handgun that the person manufactures
13 is not an unsafe handgun as prohibited by this Act.

14 (b) Every person who imports into the State for sale, keeps
15 for sale, or offers or exposes for sale any handgun shall
16 certify under penalty of perjury and any other remedy provided
17 by law that every model, kind, class, style, or type of handgun
18 that the person imports, keeps, or exposes for sale is not an
19 unsafe handgun as prohibited by this Act.

20 Section 35. Testing requirement; certification of
21 laboratories; test report.

22 (a) Any handgun manufactured in this State, imported into
23 the State for sale, kept for sale, or offered or exposed for
24 sale, shall be tested within a reasonable period of time by an

1 independent laboratory certified under subsection (b) of this
2 Section to determine whether that handgun meets or exceeds the
3 standards defined in Section 20.

4 (b) On or before October 1, 2014, the Department shall
5 certify laboratories to verify compliance with the standards
6 defined in Section 20. The Department may charge any laboratory
7 that is seeking certification to test any handgun as provided
8 in this Act, a fee not exceeding the costs of certification.

9 (c) The certified testing laboratory shall, at the
10 manufacturer's or importer's expense, test the handgun and
11 submit a copy of the final test report directly to the
12 Department along with a prototype of the handgun to be retained
13 by the Department. The Department shall notify the manufacturer
14 or importer of its receipt of the final test report and the
15 Department's determination as to whether the handgun tested may
16 be sold in this State.

17 (d) No center-fire semiautomatic pistol may be submitted
18 for testing as provided in this Act if it does not have a
19 chamber load indicator and, if it has a detachable magazine, a
20 magazine disconnect mechanism. No rimfire semiautomatic pistol
21 may be submitted for testing as provided in this Act if it has
22 a detachable magazine and does not have a magazine disconnect
23 mechanism.

24 Section 40. Roster of firearms determined not to be unsafe;
25 fee for maintenance of roster.

1 (a) On and after January 1, 2015, the Department shall
2 compile, publish, and thereafter maintain on its website a
3 roster listing all of the handguns that have been tested by a
4 certified testing laboratory, have been determined not to be
5 unsafe handguns, and may be sold in this State under this Act.
6 The roster shall list, for each handgun, the manufacturer,
7 model number, and model name.

8 (b) (1) The Department may charge every person in this
9 State who is licensed as a manufacturer of firearms under
10 Chapter 44 (commencing with Section 921) of Title 18 of the
11 United States Code, and any person in this State who
12 manufactures or causes to be manufactured, imports into the
13 State for sale, keeps for sale, or offers or exposes for
14 sale any handgun in this State, an annual fee not exceeding
15 the costs of preparing, publishing, and maintaining the
16 roster under subsection (a) of this Section and the costs
17 of research and development, report analysis, firearms
18 storage, and other program infrastructure costs necessary
19 to implement this Act.

20 (2) Any handgun that is manufactured by a manufacturer
21 who manufactures or causes to be manufactured, imports into
22 the State for sale, keeps for sale, or offers or exposes
23 for sale any handgun in this State, and who fails to pay
24 any fee required under paragraph (1) of this subsection,
25 may be excluded from the roster.

26 (3) If a purchaser has initiated a transfer of a

1 handgun that is listed on the roster as not unsafe, and
2 prior to the completion of the transfer, the handgun is
3 removed from the roster of not unsafe handguns because of
4 failure to pay the fee required to keep that handgun listed
5 on the roster, the handgun shall be deliverable to the
6 purchaser, if the purchaser is not otherwise prohibited
7 from purchasing or possessing the handgun. However, if a
8 purchaser has initiated a transfer of a handgun that is
9 listed on the roster as not unsafe, and prior to the
10 completion of the transfer, the handgun is removed from the
11 roster under subsection (d) of Section 45, the handgun
12 shall not be deliverable to the purchaser.

13 Section 45. Retesting of handguns on roster.

14 (a) The Director may annually retest up to 5 percent of the
15 handgun models that are listed on the roster described in
16 subsection (a) of Section 40.

17 (b) The retesting of a handgun model under subsection (a)
18 of this Section shall conform to the following:

19 (1) The Director shall obtain from retail or wholesale
20 sources, or both, 3 samples of the handgun model to be
21 retested.

22 (2) The Director shall select the certified laboratory
23 to be used for the retesting.

24 (3) The ammunition used for the retesting shall be of a
25 type recommended by the manufacturer in the user manual for

1 the handgun. If the user manual for the handgun model makes
2 no ammunition recommendation, the Director shall select
3 the ammunition to be used for the retesting. The ammunition
4 shall be of the proper caliber for the handgun,
5 commercially available, and in new condition.

6 (c) The retest shall be conducted in the same manner as the
7 testing prescribed in Sections 10 and 15.

8 (d) If the handgun model fails retesting, the Director
9 shall remove the handgun model from the roster maintained under
10 subsection (a) of Section 40.

11 Section 50. Removal of handgun from roster.

12 (a) A handgun model removed from the roster under
13 subsection (d) of Section 45 may be reinstated on the roster if
14 all of the following are met:

15 (1) The manufacturer petitions the Director for
16 reinstatement of the handgun model.

17 (2) The manufacturer pays the Department for all of the
18 costs related to the reinstatement testing of the handgun
19 model, including the purchase price of the handguns, prior
20 to reinstatement testing.

21 (3) The reinstatement testing of the handguns shall be
22 in accordance with subsections (b) and (c) of Section 45.

23 (4) The 3 handgun samples shall be tested only once for
24 reinstatement. If the sample fails it may not be retested.

25 (5) If the handgun model successfully passes testing

1 for reinstatement, and if the manufacturer of the handgun
2 is otherwise in compliance with this Act, the Director
3 shall reinstate the handgun model on the roster maintained
4 under subsection (a) of Section 40.

5 (6) The manufacturer shall provide the Director with
6 the complete testing history for the handgun model.

7 (b) Notwithstanding subsection (a) of Section 45, the
8 Director may at any time, in his or her discretion, further
9 retest any handgun model that has been reinstated to the
10 roster.

11 Section 55. Listing of handguns differing only
12 cosmetically from handguns on roster.

13 (a) A handgun shall be deemed to satisfy the requirements
14 of subsection (a) of Section 40 if another handgun made by the
15 same manufacturer is already listed and the unlisted handgun
16 differs from the listed handgun only in one or more of the
17 following features:

18 (1) Finish, including, but not limited to, bluing,
19 chrome-plating, oiling, or engraving.

20 (2) The material from which the grips are made.

21 (3) The shape or texture of the grips, so long as the
22 difference in grip shape or texture does not in any way
23 alter the dimensions, material, linkage, or functioning of
24 the magazine well, the barrel, the chamber, or any of the
25 components of the firing mechanism of the handgun.

1 (4) Any other purely cosmetic feature that does not in
2 any way alter the dimensions, material, linkage, or
3 functioning of the magazine well, the barrel, the chamber,
4 or any of the components of the firing mechanism of the
5 handgun.

6 (b) Any manufacturer seeking to have a handgun listed under
7 this Section shall provide to the Department all of the
8 following:

9 (1) The model designation of the listed handgun.

10 (2) The model designation of each handgun that the
11 manufacturer seeks to have listed under this Section.

12 (3) A statement, under oath, that each unlisted handgun
13 for which listing is sought differs from the listed handgun
14 only in one or more of the ways identified in subsection
15 (a) of this Section and is in all other respects identical
16 to the listed handgun.

17 (c) The Department may, in its discretion and at any time,
18 require a manufacturer to provide to the Department any model
19 for which listing is sought under this Section, to determine
20 whether the model complies with the requirements of this
21 Section.

22 Section 60. Exceptions for certain revolvers and pistols.

23 (a) This Act shall not apply to a single-action revolver
24 that has at least a 5-cartridge capacity with a barrel length
25 of not less than 3 inches, and meets any of the following

1 specifications:

2 (1) Was originally manufactured prior to 1900 and is a
3 curio or relic, as defined in Section 478.11 of Title 27 of
4 the Code of Federal Regulations, or is a replica of such a
5 revolver.

6 (2) Has an overall length measured parallel to the
7 barrel of at least 7 and one-half inches when the handle,
8 frame or receiver, and barrel are assembled.

9 (3) Has an overall length measured parallel to the
10 barrel of at least 7 and one-half inches when the handle,
11 frame or receiver, and barrel are assembled and that is
12 currently approved for importation into the United States
13 under the provisions of paragraph (3) of subsection (d) of
14 Section 925 of Title 18 of the United States Code.

15 (b) This Act shall not apply to a single-shot pistol with a
16 barrel length of not less than 6 inches and that has an overall
17 length of at least 10 and one-half inches when the handle,
18 frame or receiver, and barrel are assembled.

19 Section 65. Exception for pistols designed for Olympic
20 target shooting.

21 (a) The General Assembly finds a significant public purpose
22 in exempting pistols that are designed expressly for use in
23 Olympic target shooting events. Therefore, those pistols that
24 are sanctioned by both the International Olympic Committee and
25 USA Shooting (the national governing body for international

1 shooting competition in the United States), that are used for
2 Olympic target shooting purposes, and that fall within the
3 definition of "unsafe handgun" under paragraph (3) of
4 subsection (b) of Section 20 shall be exempt from the
5 provisions of this Act, as provided in subsection (b) of this
6 Section.

7 (b) The Department shall create a program that is
8 consistent with the purpose stated in subsection (a) of this
9 Section to exempt specific models of competitive firearms from
10 this Act, and shall publish on its website a list of those
11 specific models. The exempt competitive firearms may be based
12 on recommendations by USA Shooting consistent with the
13 regulations contained in the USA Shooting Official Rules or may
14 be based on the recommendation or rules of any other
15 organization that the Department deems relevant.

16 Section 70. Exception for certain sales, loans, and
17 transfers. This Act shall not apply to any of the following:

18 (1) The sale, loan, or transfer of any handgun described in
19 subsection (b) of Section 25, for the purposes set forth in
20 that Section.

21 (2) The sale, loan, or transfer of any handgun listed as a
22 curio or relic, as defined in Section 478.11 of Title 27 of the
23 Code of Federal Regulations.

24 (3) The sale, loan, or transfer of any handgun that is to
25 be used solely as a prop during the course of a motion picture,

1 television, or video production by an authorized participant
2 therein in the course of making that production or event or by
3 an authorized employee or agent of the entity producing that
4 production or event.

5 (4) The sale, loan, or transfer of any handgun that has
6 been altered to render it permanently inoperable.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".