

**ASSEMBLY BILL**

**No. 301**

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**Introduced by Assembly Member Bauer-Kahan  
(Principal coauthors: Assembly Members Berman, Connolly, and  
Mike Fong)**

January 26, 2023

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An act to repeal and add Section 31360 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 301, as introduced, Bauer-Kahan. Body armor: prohibition.

Existing law makes it a felony for a person who has been convicted of a violent felony to purchase, own, or possess body armor. Existing law authorizes a person subject to that prohibition, whose employment, livelihood, or safety is dependent on the ability to legally possess and use body armor, to file a petition for an exception to the prohibition with the chief of police or county sheriff of the jurisdiction in which the person seeks to possess and use the body armor, as provided.

This bill would repeal those provisions and instead make it a misdemeanor for any person to purchase or take possession of body armor, and a felony for any person who has been convicted of a violent felony to do so, unless they are employed in specified professions. The bill would additionally make it a misdemeanor for a person, firm, or corporation to sell or deliver body armor to any person not engaged in one of those professions. The bill would require a seller to verify that a transferee is from an eligible profession, as specified. The bill would authorize the Department of Justice to expand the list of eligible professions if the duties of the profession may expose an individual engaged in the profession to serious physical injury that may be

prevented or mitigated by the wearing of body armor, or if the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 31360 of the Penal Code is repealed.
- 2 ~~31360. (a) A person who has been convicted of a violent felony~~
- 3 ~~under the laws of the United States, the State of California, or any~~
- 4 ~~other state, government, or country, who purchases, owns, or~~
- 5 ~~possesses body armor, as defined in Section 16288, except as~~
- 6 ~~authorized under subdivision (b), is guilty of a felony, punishable~~
- 7 ~~by imprisonment in state prison for 16 months, or two or three~~
- 8 ~~years.~~
- 9 ~~(b) A person whose employment, livelihood, or safety is~~
- 10 ~~dependent on the ability to legally possess and use body armor,~~
- 11 ~~who is subject to the prohibition imposed by subdivision (a) due~~
- 12 ~~to a prior violent felony conviction, may file a petition for an~~
- 13 ~~exception to this prohibition with the chief of police or county~~
- 14 ~~sheriff of the jurisdiction in which that person seeks to possess~~
- 15 ~~and use the body armor. The chief of police or sheriff may reduce~~
- 16 ~~or eliminate the prohibition, impose conditions on reduction or~~
- 17 ~~elimination of the prohibition, or otherwise grant relief from the~~
- 18 ~~prohibition as the chief of police or sheriff deems appropriate,~~
- 19 ~~based on the following:~~
- 20 ~~(1) A finding that the petitioner is likely to use body armor in~~
- 21 ~~a safe and lawful manner.~~
- 22 ~~(2) A finding that the petitioner has a reasonable need for this~~
- 23 ~~type of protection under the circumstances.~~
- 24 ~~In making its decision, the chief of police or sheriff shall consider~~
- 25 ~~the petitioner's continued employment, the interests of justice, any~~
- 26 ~~relevant evidence, and the totality of the circumstances. It is the~~
- 27 ~~intent of the Legislature that law enforcement officials exercise~~

1 ~~broad discretion in fashioning appropriate relief under this~~  
2 ~~paragraph in cases in which relief is warranted. However, this~~  
3 ~~paragraph may not be construed to require law enforcement~~  
4 ~~officials to grant relief to any particular petitioner. Relief from this~~  
5 ~~prohibition does not relieve any other person or entity from any~~  
6 ~~liability that might otherwise be imposed.~~

7 ~~(e) The chief of police or sheriff shall require, as a condition of~~  
8 ~~granting an exception under subdivision (b), that the petitioner~~  
9 ~~agree to maintain on the petitioner's person a certified copy of the~~  
10 ~~law enforcement official's permission to possess and use body~~  
11 ~~armor, including any conditions or limitations.~~

12 ~~(d) Law enforcement officials who enforce the prohibition~~  
13 ~~specified in subdivision (a) against a person who has been granted~~  
14 ~~relief pursuant to subdivision (b), shall be immune from any~~  
15 ~~liability for false arrest arising from the enforcement of this~~  
16 ~~subdivision unless the person has in possession a certified copy~~  
17 ~~of the permission granting the person relief from the prohibition,~~  
18 ~~as required by subdivision (e). This immunity from liability does~~  
19 ~~not relieve any person or entity from any other liability that might~~  
20 ~~otherwise be imposed.~~

21 SEC. 2. Section 31360 is added to the Penal Code, to read:

22 31360. (a) A person is guilty of the unlawful purchase of body  
23 armor when, not being engaged or employed in an eligible  
24 profession, they knowingly purchase or take possession of body  
25 armor. This subdivision does not apply to individuals or entities  
26 engaged or employed in eligible professions.

27 (b) (1) No person, firm, or corporation shall sell or deliver body  
28 armor to any person or entity not engaged or employed in an  
29 eligible profession. Before selling or delivering body armor, a  
30 person, firm, or corporation shall check proof of engagement in  
31 an eligible profession.

32 (2) No sale or delivery of body armor shall be made unless the  
33 transferee meets in person with the transferor to accomplish the  
34 sale or delivery.

35 (3) For the purposes of paragraph (1), proof of engagement in  
36 an eligible profession may be satisfied by submission to the seller  
37 of a professional license issued by a federal, state, or local  
38 government, employment card or other credential issued by an  
39 employer, or in the absence of either of those, submission to the  
40 seller of a form approved by the Department of Justice that is

1 notarized, verifying that the purchaser is engaged in an eligible  
2 profession.

3 (4) This subdivision does not apply to purchases made by  
4 federal, state, or local government agencies for the purpose of  
5 furnishing body armor to employees in eligible professions.

6 (c) For the purposes of this section, “eligible professions” means  
7 any of the following:

8 (1) Peace officers.

9 (2) Persons in military service in the state or military or other  
10 service for the United States.

11 (3) Federal law enforcement officers.

12 (4) Armored car guards.

13 (5) Security guards.

14 (6) Firefighters.

15 (7) Emergency medical technicians and paramedics.

16 (8) Firearms dealers.

17 (9) Body armor retailers or salespersons.

18 (10) Private investigators.

19 (11) Building safety inspectors.

20 (12) Code enforcement officers.

21 (13) Any profession added by the Department of Justice pursuant  
22 to subdivision (d).

23 (d) (1) The Department of Justice may add additional  
24 professions pursuant to paragraph (13) of subdivision (d). The  
25 department shall add a profession to the list of eligible professions  
26 if the duties of the profession may expose an individual engaged  
27 in the profession to serious physical injury that may be prevented  
28 or mitigated by the wearing of body armor, or if the duties of the  
29 profession are necessary to facilitate the lawful purchase, sale, or  
30 use of body armor.

31 (2) An individual or entity engaged in a profession in the state  
32 that is not on the list of eligible professions may request that the  
33 Department of Justice add their profession to the list of eligible  
34 professions by filing a request with the Department of Justice in  
35 a form and method approved by the department.

36 (e) (1) Except as provided in paragraph (2), a violation of  
37 subdivision (a) or (b) shall be a misdemeanor, punishable by a fine  
38 not to exceed five thousand dollars (\$5,000) for a first offense,  
39 and not to exceed ten thousand dollars (\$10,000) for any  
40 subsequent offense.

1 (2) A violation of subdivision (a) by a person who has been  
2 convicted of a violent felony under the laws of the United States,  
3 the State of California, or any other state, government, or country  
4 shall be punishable by imprisonment in state prison for 16 months,  
5 or two or three years.

6 SEC. 3. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.