

BILL ANALYSIS

S.B. 1348
By: West
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A straw purchase occurs when a legally eligible buyer purchases firearms for traffickers or persons who are prohibited from buying guns. Reports suggest that firearms purchased by straw purchasers often land in the hands of criminals and are recovered by law enforcement from crime scenes. Case studies also show that organized straw purchasing operations working in tandem with corrupt, licensed dealers, divert thousands of firearms from the primary gun market to illegal street markets. Concerns have been raised that current law does not specifically address straw purchases. S.B. 1348 seeks to address this issue by, among other provisions, creating an offense and prescribing a penalty for persons who knowingly purchase guns to deliver to those who cannot legally purchase firearms and for persons who provide false or misleading information on certain forms required to purchase a firearm.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1348 amends the Penal Code to make it a third degree felony offense to sell, rent, lease, loan, or give a firearm to any person knowing that the person to whom the firearm is to be delivered intends to use the firearm unlawfully or in the commission of an unlawful act, rather than making it a Class A misdemeanor offense to take such action with respect to a handgun. The bill makes it a third degree felony offense to purchase or attempt to purchase a firearm with intent to deliver the firearm to a person knowing that the person to whom the firearm is to be delivered intends to possess the firearm unlawfully or to use the firearm unlawfully or in the commission of an unlawful act, and establishes that the renunciation defense, as it relates to the avoidance of the commission of an offense, is available as an affirmative defense to prosecution for such an offense. The bill makes it a third degree felony offense to knowingly make a materially false or misleading statement in providing information to a person for purposes of complying with the national instant criminal background check system in the manner required by federal law.

S.B. 1348 includes the commission of or conspiracy to commit such a third degree felony offense concerning the unlawful transfer or purchase of weapons with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang as conduct that constitutes an offense of engaging in organized criminal activity. The bill establishes that to the extent of any conflict between state and federal law related to the unlawful transfer or purchase of weapons, the federal law prevails.

EFFECTIVE DATE

September 1, 2013.