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April 2, 2013

BPC #13-0116

The Honorable Public Safety Committee
City of Los Angeles
c/o City Clerk's Office
City Hall, Room 395
Los Angeles, CA 90012

Attention John White:

RE: SENATE BILL 1315 – IMITATION FIREARMS (TRADITIONAL BB OR PELLET –
FIRING AIR GUNS)

At the regular meeting of the Board of Police Commissioners held Tuesday, April 2, 2013, the Board APPROVED the Department's report relative to the above matter.

This matter is being forwarded to you for approval.

Respectfully,

BOARD OF POLICE COMMISSIONERS

A handwritten signature in cursive script that reads "Maria Silva".

MARIA SILVA
Commission Executive Assistant

Attachment

c: Chief of Police

RECEIVED

MAR 28 2013

POLICE COMMISSION

March 29, 2013
8.4

REVIEWED

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

Richard M. Teftank 3/28/13
 RICHARD M. TEFANK DATE
 CHIEF OF POLICE

SUBJECT: SENATE BILL 1315 – IMITATION FIREARMS (TRADITIONAL BB OR PELLET - FIRING AIR GUNS)

RECOMMENDED ACTIONS

1. That the Board of Police Commissioners (Board) REVIEW and APPROVE this request.
2. That the Board TRANSMIT this request to the Public Safety Committee, Los Angeles City Council, for the Office of the City Attorney to amend or draft a new Los Angeles Municipal Code ordinance for the sales and manufacturing of traditional BB or pellet-firing air guns that expel a projectile through the force of spring or air pressure.

DISCUSSION

On August 28, 2012, the Governor of the State of California signed into law Senate Bill 1315, authorizing the County of Los Angeles or any city within the County of Los Angeles, to enact and enforce any ordinance or resolution that is more restrictive than state law which defines “imitation firearm” as any BB device, toy gun, replica of a firearm, or other device that is substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm. The drafting of a new law or the amendment of existing law will further define “imitation firearms” and will aid law enforcement in differentiating real firearms from BB devices and imitation firearms. It will also prohibit the possession, sales and manufacturing of BB devices and imitation firearms in the City of Los Angeles that are similar in size and appearance to actual firearms.

The need to further define BB devices and “imitation firearms” resulted from two Los Angeles Police Department (Department) officer involved shootings (OIS) where the suspect(s) possessed a BB device (Airsoft pistol) or imitation firearm that resembled an actual firearm. It is opined that both of these OIS incidents might have been avoided if BB devices did not have the same appearance and color of actual firearms. It is the Department’s duty to emphasize how important it is to draft new laws or amend existing laws that would help prevent future OIS incidents associated with BB devices and imitation firearms. The Department is requesting that the City Council direct the City Attorney’s Office to draft a new LAMC section or amend LAMC section 45.01 to include the following language:

- *All BB devices or imitation firearms as defined in 45.01(k) LAMC possessed, sold or manufactured in the City of Los Angeles, that appear to be a "pistol," "revolver," or any firearm capable of being concealed upon a person to include any device with an overall length less than 16 inches shall have the entire exterior surface of the device white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominate color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents. Also, no person shall possess in a public place such aforementioned devices as defined in California Penal Code Section 20170 and such exemptions defined in California Penal Code Section 20175, excluding sub section (m).*

Should you have any questions regarding this request, please contact Captain William J. Hart, Commanding Officer, Gang and Narcotics Division, at (213) 833-3700.

Respectfully,



CHARLIE BECK
Chief of Police

BOARD OF
POLICE COMMISSIONERS

Approved *April 2, 2013*
Secretary *Maria Silva*

INTR DEPARTMENTAL CORRESPONDENCE

January 22, 2013

8.4

TO: Chief of Police

FROM: Chief of Detectives

SUBJECT: SENATE BILL 1315 – IMITATION FIREARMS (TRADITIONAL BB OR PELLET FIRING AIR GUNS)

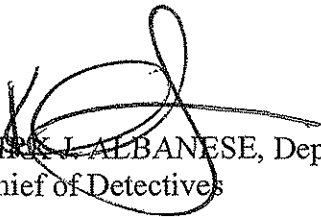
On August 28, 2012, the Governor of the State of California signed into law Senate Bill 1315, authorizing the County of Los Angeles or any city within the County of Los Angeles, to enact and enforce any ordinance or resolution that is more restrictive than state law which defines “imitation firearm” as any BB device, toy gun, replica of a firearm, or other device that is substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm. The drafting of a new law or the amendment of existing law, will further define “imitation firearms” and will aid law enforcement in differentiating real firearms from BB devices and imitation firearms. It will also prohibit the possession, sales and manufacturing of BB devices and imitation firearms in the City of Los Angeles that are similar in size and appearance to actual firearms.

The need to further define BB devices and “imitation firearms” resulted from two Los Angeles Police Department (LAPD) officer involved shootings (OIS) where the suspect(s) possessed a BB device (Airsoft pistol) or imitation firearm that resembled an actual firearm. It is opined that both of these OIS incidents might have been avoided if BB devices did not have the same appearance and color of actual firearms. It is the Department’s duty to emphasize how important it is to draft new laws or amend existing laws that would help prevent future OIS incidents associated with BB devices and imitation firearms. The Department is requesting that the City Council direct the City Attorney’s Office to draft a new LAMC section or amend LAMC section 45.01 to include the following language:

- *All BB devices or imitation firearms as defined in 45.01(k) LAMC possessed, sold or manufactured in the City of Los Angeles, that appear to be a “pistol,” “revolver,” or any firearm capable of being concealed upon a person to include any device with an overall length less than 16 inches shall have the entire exterior surface of the device white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominate color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device’s complete contents. Also, no person shall possess in a public place such aforementioned devices as defined in California Penal Code Section 20170 and such exemptions defined in California Penal Code Section 20175, excluding sub section (m).*

Chief of Police
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8.4

Should you have any questions regarding this request, please contact Captain William J. Hart, Commanding Officer, Gang and Narcotics Division, at (213) 972-2460.



KENNETH J. ALBANESE, Deputy Chief
Chief of Detectives

Attachment

FACT SHEET

Imitation Firearms/BB Device Ordinance December 6, 2012

Purpose: At the direction of the Chief of Detectives, the Gun Unit, Gang and Narcotics Division (GND) prepared this fact sheet to identify California Penal Code sections defining legal possession, sales and use of imitation firearms and BB devices, as well as the repeal of section 45.01(K) of the Los Angeles Municipal Code (LAMC).

Background: Last year, the Chief of Police (COP), proposed a legislative change which would allow the City of Los Angeles to prohibit the sales and manufacturing of imitation firearms/BB devices with an overall length less than 16 inches that are not transparent, or brightly colored.

The City Attorney's Office will repeal LAMC 45.01(K) since State law adequately covers sales to minors (See penal code sections 19910 and 19915). LAMC 45.01 (K) reads as follows:

- *No person shall sell, exchange, give or loan to any person under 18 years of age any spring or air gun or other device designed or intended to discharge any pellets, BB shot, shot or other deadly or dangerous missile.*

California Penal Codes

Definitions

- 16250 PC- Definition of BB device.
- 16700 PC- Definition of imitation firearm.

Possession

- 20170 PC- Unlawful display/possession of imitation firearm in a public place.
- 20175 PC- Lawful display/possession of imitation firearm in a public place.

Sales

- 19910 PC- Unlawful sales of BB devices to a minor.
- 19915 PC- Unlawful loan/transfer of BB device to minor.

Use/Discharge

- 246.3(B) PC- Willful discharge of a BB device in a grossly negligent manner.
- 417.4 PC PC- Unlawful drawing or exhibiting of imitation firearm in threatening manner.

California Penal Code Section **16250** As used in this part, "BB device" means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

California Penal Code Section **16700** (a) As used in this part, "imitation firearm" means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm. (b) As used in Section 20165, "imitation firearm" does not include any of the following:

- (1) A nonfiring collector's replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.
- (2) A BB device.
- (3) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the

FACT SHEET

Imitation Firearms/BB Device Ordinance

December 6, 2012

predominant color in combination with other colors in any pattern, as provided by federal regulations governing imitation firearms, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents, as provided by federal regulations governing imitation firearms.

California Penal Code Section **20170(a)** No person may openly display or expose any imitation firearm in a public place. (b) As used in this section, "public place" means an area open to the public and includes any of the following: (1) A street. (2) A sidewalk. (3) A bridge. (4) An alley. (5) A plaza. (6) A park. (7) A driveway. (8) A front yard. (9) A parking lot. (10) An automobile, whether moving or not. (11) A building open to the general public, including one that serves food or drink, or provides entertainment. (12) A doorway or entrance to a building or dwelling. (13) A public school. (14) A public or private college or university.

California Penal Code Section **20175**, Section 12070 does not apply in any of the following circumstances: (a) The imitation firearm is packaged or concealed so that it is not subject to public viewing. (b) The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm. (c) The imitation firearm is used in a theatrical production, a motion picture, video, television, or stage production. (d) The imitation firearm is used in conjunction with a certified or regulated sporting event or competition. (e) The imitation firearm is used in conjunction with lawful hunting, or a lawful pest control activity. (f) The imitation firearm is used or possessed at a certified or regulated public or private shooting range. (g) The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from a local or state government. (h) The imitation firearm is used in a military, civil defense, or civic activity, including a flag ceremony, color guard, parade, award presentation, historical reenactment, or memorial. (i) The imitation firearm is used for a public display authorized by a public or private school or a display that is part of a museum collection. (j) The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from a local or state government. (k) The imitation firearm is displayed on a wall plaque or in a presentation case. (l) The imitation firearm is used in an area where the discharge of a firearm is lawful. (m) The entire exterior surface of the imitation firearm is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or the entire device is constructed of transparent or translucent material that permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent

California Penal Code Section **19910** Every person who sells any BB device to a minor is guilty of a misdemeanor.

California Penal Code Section **19915(a)** Every person who furnishes any BB device to any minor, without the express or implied permission of a parent or legal guardian of the minor, is guilty of a misdemeanor. (b) As used in this section, "furnishes" means either of the following: (1) A loan. (2) A transfer that does not involve a sale.

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Imitation Firearms/BB Device Ordinance

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California Penal Code Section **246.3** (a) Except as otherwise authorized by law, any person who willfully discharges a firearm in a grossly negligent manner which could result in injury or death to a person is guilty of a public offense and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(b) Except as otherwise authorized by law, any person who willfully discharges a BB device in a grossly negligent manner which could result in injury or death to a person is guilty of a public offense and shall be punished by imprisonment in a county jail not exceeding one year.

(c) As used in this section, "BB device" means any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action.

California Penal Code Section **417.4** Every person who, except in self-defense, draws or exhibits an imitation firearm, as defined in subdivision (a) of Section 16700, in a threatening manner against another in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a misdemeanor punishable by imprisonment in a county jail for a term of not less than 30 days.