

Introduced by Senator Scott

February 23, 2001

An act to amend Section ~~11106~~ 12001 of the Penal Code, relating to ~~crime prevention~~ firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 836, as amended, Scott. ~~Crime prevention~~ Firearms.

Existing law defines the terms "pistol," "revolver," and "firearm capable of being concealed upon the person," for various purposes, including regulating firearms.

This bill would, for those same purposes, define "handgun" to mean a pistol, revolver, or firearm capable of being concealed upon the person.

~~Existing law requires specified information in regard to fingerprints, application for licenses to carry concealed firearms, and information in regard to firearms transfers to be kept and maintained by the Attorney General.~~

~~This bill would make a technical, nonsubstantive change to those provisions~~

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

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

- 1 ~~SECTION 1. Section 11106 of the Penal Code is amended to~~
- 2 *SECTION 1. Section 12001 of the Penal Code is amended to*
- 3 *read:*

1 12001. (a) (1) As used in this title, the terms “pistol,”
2 “revolver,” and “firearm capable of being concealed upon the
3 person” shall apply to and include any device designed to be used
4 as a weapon, from which is expelled a projectile by the force of any
5 explosion, or other form of combustion, and that has a barrel less
6 than 16 inches in length. These terms also include any device that
7 has a barrel 16 inches or more in length which is designed to be
8 interchanged with a barrel less than 16 inches in length.

9 (2) *As used in this title, the term “handgun” means any pistol,*
10 *revolver, or firearm capable of being concealed upon the person.*

11 (b) As used in this title, “firearm” means any device, designed
12 to be used as a weapon, from which is expelled through a barrel a
13 projectile by the force of any explosion or other form of
14 combustion.

15 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
16 12073, 12078, and 12101 of this code, and Sections 8100, 8101,
17 and 8103 of the Welfare and Institutions Code, the term “firearm”
18 includes the frame or receiver of the weapon.

19 (d) For the purposes of Sections 12025 and 12031, the term
20 “firearm” also shall include any rocket, rocket propelled
21 projectile launcher, or similar device containing any explosive or
22 incendiary material whether or not the device is designed for
23 emergency or distress signaling purposes.

24 (e) For purposes of Sections 12070, 12071, and paragraph (7)
25 of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section
26 12072, the term “firearm” does not include an unloaded firearm
27 that is defined as an “antique firearm” in Section 921(a)(16) of
28 Title 18 of the United States Code.

29 (f) Nothing shall prevent a device defined as a “pistol,”
30 “revolver,” or “firearm capable of being concealed upon the
31 person” from also being found to be a short-barreled shotgun or
32 a short-barreled rifle, as defined in Section 12020.

33 (g) For purposes of Sections 12551 and 12552, the term “BB
34 device” means any instrument that expels a metallic projectile,
35 such as a BB or a pellet, through the force of air pressure, CO₂
36 pressure, or spring action, or any spot marker gun.

37 (h) As used in this title, “wholesaler” means any person who
38 is licensed as a dealer pursuant to Chapter 44 (commencing with
39 Section 921) of Title 18 of the United States Code and the
40 regulations issued pursuant thereto who sells, transfers, or assigns



1 firearms, or parts of firearms, to persons who are licensed as
2 manufacturers, importers, or gunsmiths pursuant to Chapter 44
3 (commencing with Section 921) of Title 18 of the United States
4 Code, or persons licensed pursuant to Section 12071, and includes
5 persons who receive finished parts of firearms and assemble them
6 into completed or partially completed firearms in furtherance of
7 that purpose.

8 “Wholesaler” shall not include a manufacturer, importer, or
9 gunsmith who is licensed to engage in those activities pursuant to
10 Chapter 44 (commencing with Section 921) of Title 18 of the
11 United States Code or a person licensed pursuant to Section 12071
12 and the regulations issued pursuant thereto. A wholesaler also does
13 not include those persons dealing exclusively in grips, stocks, and
14 other parts of firearms that are not frames or receivers thereof.

15 (i) As used in Section 12071, 12072, or 12084, “application to
16 purchase” means any of the following:

17 (1) The initial completion of the register by the purchaser,
18 transferee, or person being loaned the firearm as required by
19 subdivision (b) of Section 12076.

20 (2) The initial completion of the LEFT by the purchaser,
21 transferee, or person being loaned the firearm as required by
22 subdivision (d) of Section 12084.

23 (3) The initial completion and transmission to the department
24 of the record of electronic or telephonic transfer by the dealer on
25 the purchaser, transferee, or person being loaned the firearm as
26 required by subdivision (c) of Section 12076.

27 (j) For purposes of Section 12023, a firearm shall be deemed
28 to be “loaded” whenever both the firearm and the unexpended
29 ammunition capable of being discharged from the firearm are in
30 the immediate possession of the same person.

31 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
32 12072, 12073, 12078, and 12101 of this code, and Sections 8100,
33 8101, and 8103 of the Welfare and Institutions Code,
34 notwithstanding the fact that the term “any firearm” may be used
35 in those sections, each firearm or the frame or receiver of the same
36 shall constitute a distinct and separate offense under those
37 sections.

38 (l) For purposes of Section 12020, a violation of that section as
39 to each firearm, weapon, or device enumerated therein shall
40 constitute a distinct and separate offense.



1 (m) Each application that requires any firearms eligibility
2 determination involving the issuance of any license, permit, or
3 certificate pursuant to this title shall include two copies of the
4 applicant's fingerprints on forms prescribed by the Department of
5 Justice. One copy of the fingerprints may be submitted to the
6 United States Federal Bureau of Investigation.

7 (n) As used in this chapter, a "personal handgun importer"
8 means an individual who meets all of the following criteria:

9 (1) He or she is not a person licensed pursuant to Section 12071.

10 (2) He or she is not a licensed manufacturer of firearms
11 pursuant to Chapter 44 (commencing with Section 921) of Title 18
12 of the United States Code.

13 (3) He or she is not a licensed importer of firearms pursuant to
14 Chapter 44 (commencing with Section 921) of Title 18 of the
15 United States Code and the regulations issued pursuant thereto.

16 (4) He or she is the owner of a pistol, revolver, or other firearm
17 capable of being concealed upon the person.

18 (5) He or she acquired that pistol, revolver, or other firearm
19 capable of being concealed upon the person outside of California.

20 (6) He or she moves into this state on or after January 1, 1998,
21 as a resident of this state.

22 (7) He or she intends to possess that pistol, revolver, or other
23 firearm capable of being concealed upon the person within this
24 state on or after January 1, 1998.

25 (8) The pistol, revolver, or other firearm capable of being
26 concealed upon the person was not delivered to him or her by a
27 person licensed pursuant to Section 12071 who delivered that
28 firearm following the procedures set forth in Section 12071 and
29 subdivision (c) of Section 12072.

30 (9) He or she, while a resident of this state, had not previously
31 reported his or her ownership of that pistol, revolver, or other
32 firearm capable of being concealed upon the person to the
33 Department of Justice in a manner prescribed by the department
34 that included information concerning him or her and a description
35 of the firearm.

36 (10) The pistol, revolver, or other firearm capable of being
37 concealed upon the person is not a firearm that is prohibited by
38 subdivision (a) of Section 12020.



1 (11) The pistol, revolver, or other firearm capable of being
2 concealed upon the person is not an assault weapon, as defined in
3 Section 12276 or 12276.1.

4 (12) The pistol, revolver, or other firearm capable of being
5 concealed upon the person is not a machinegun, as defined in
6 Section 12200.

7 (13) The person is 18 years of age or older.

8 (o) For purposes of paragraph (6) of subdivision (n):

9 (1) Except as provided in paragraph (2), residency shall be
10 determined in the same manner as is the case for establishing
11 residency pursuant to Section 12505 of the Vehicle Code.

12 (2) In the case of members of the armed forces of the United
13 States, residency shall be deemed to be established when he or she
14 was discharged from active service in this state.

15 read:

16 ~~11106.—(a) In order to assist in the investigation of crimes, the~~
17 ~~arrest and prosecution of criminals, and the recovery of lost,~~
18 ~~stolen, or found property, the Attorney General shall keep and~~
19 ~~properly file a complete record of all copies of fingerprints, copies~~
20 ~~of applications for licenses to carry firearms issued pursuant to~~
21 ~~Section 12050, information reported to the Department of Justice~~
22 ~~pursuant to Section 12053, dealers' records of sales of firearms,~~
23 ~~reports provided pursuant to Section 12072 or 12078, forms~~
24 ~~provided pursuant to Section 12084, reports provided pursuant to~~
25 ~~Section 12071 that are not dealers' records of sales of firearms, and~~
26 ~~reports of stolen, lost, found, pledged, or pawned property in any~~
27 ~~city or county of this state, and shall, upon proper application~~
28 ~~therefor, furnish to the officers mentioned in Section 11105, hard~~
29 ~~copy printouts of those records as photographic, photostatic, and~~
30 ~~nonerasable optically stored reproductions.~~

31 ~~(b) (1) Notwithstanding subdivision (a), the Attorney General~~
32 ~~shall not retain or compile any information from reports filed~~
33 ~~pursuant to subdivision (a) of Section 12078 for firearms that are~~
34 ~~not pistols, revolvers, or other firearms capable of being concealed~~
35 ~~upon the person, from forms submitted pursuant to Section 12084~~
36 ~~for firearms that are not pistols, revolvers, or other firearms~~
37 ~~capable of being concealed upon the person, or from dealers'~~
38 ~~records of sales for firearms that are not pistols, revolvers, or other~~
39 ~~firearms capable of being concealed upon the person. All copies~~
40 ~~of the forms submitted, or any information received in electronic~~



1 form, pursuant to Section 12084 for firearms that are not pistols,
2 revolvers, or other firearms capable of being concealed upon the
3 person, or of the dealers' records of sales for firearms that are not
4 pistols, revolvers, or other firearms capable of being concealed
5 upon the person shall be destroyed within five days of the
6 clearance by the Attorney General, unless the purchaser or
7 transferor is ineligible to take possession of the firearm. All copies
8 of the reports filed, or any information received in electronic form,
9 pursuant to subdivision (a) of Section 12078 for firearms that are
10 not pistols, revolvers, or other firearms capable of being concealed
11 upon the person shall be destroyed within five days of the receipt
12 by the Attorney General, unless retention is necessary for use in a
13 criminal prosecution.

14 (2) A peace officer, the Attorney General, a Department of
15 Justice employee designated by the Attorney General, or any
16 authorized local law enforcement employee shall not retain or
17 compile any information from a firearms transaction record, as
18 defined in paragraph (5) of subdivision (e) of Section 12071, for
19 firearms that are not pistols, revolvers, or other firearms capable
20 of being concealed upon the person unless retention or compilation
21 is necessary for use in a criminal prosecution or in a proceeding to
22 revoke a license issued pursuant to Section 12071.

23 (3) A violation of this subdivision is a misdemeanor.

24 (e) (1) The Attorney General shall permanently keep and
25 properly file and maintain all information reported to the
26 Department of Justice pursuant to Sections 12071, 12072, 12078,
27 12082, and 12084 or any other law, as to pistols, revolvers, or other
28 firearms capable of being concealed upon the person and maintain
29 a registry thereof.

30 (2) The registry shall consist of all of the following:

31 (A) The name, address, identification of, place of birth (state or
32 country), complete telephone number, occupation, sex,
33 description, and all legal names and aliases ever used by the owner
34 or person being loaned the particular pistol, revolver, or other
35 firearm capable of being concealed upon the person as listed on the
36 information provided to the department on the Dealers' Record of
37 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
38 in Section 12084, or reports made to the department pursuant to
39 Section 12078 or any other law.



1 ~~(B) The name and address of, and other information about, any~~
2 ~~person (whether a dealer or a private party) from whom the owner~~
3 ~~acquired or the person being loaned the particular pistol, revolver,~~
4 ~~or other firearm capable of being concealed upon the person and~~
5 ~~when the firearm was acquired or loaned as listed on the~~
6 ~~information provided to the department on the Dealers' Record of~~
7 ~~Sale, the LEFT, or reports made to the department pursuant to~~
8 ~~Section 12078 or any other law.~~

9 ~~(C) Any waiting period exemption applicable to the transaction~~
10 ~~which resulted in the owner of or the person being loaned the~~
11 ~~particular pistol, revolver, or other firearm capable of being~~
12 ~~concealed upon the person acquiring or being loaned that firearm.~~

13 ~~(D) The manufacturer's name if stamped on the firearm; model~~
14 ~~name or number if stamped on the firearm; and, if applicable, the~~
15 ~~serial number, other number (if more than one serial number is~~
16 ~~stamped on the firearm), caliber, type of firearm, if the firearm is~~
17 ~~new or used, barrel length, and color of the firearm.~~

18 ~~(3) Information in the registry referred to in this subdivision~~
19 ~~shall, upon proper application therefor, be furnished to the officers~~
20 ~~referred to in Section 11105 or to the person listed in the registry~~
21 ~~as the owner or person who is listed as being loaned the particular~~
22 ~~pistol, revolver, or other firearm capable of being concealed upon~~
23 ~~the person in the form of hard copy printouts of that information~~
24 ~~as photographic, photostatic, and nonerasable optically stored~~
25 ~~reproductions.~~

26 ~~(4) If any person is listed in the registry as the owner of a~~
27 ~~firearm through a Dealers' Record of Sale prior to 1979, and the~~
28 ~~person listed in the registry requests by letter that the Attorney~~
29 ~~General store and keep the record electronically, as well as in the~~
30 ~~record's existing photographic, photostatic, or nonerasable~~
31 ~~optically stored form, the Attorney General shall do so within three~~
32 ~~working days of receipt of the request. The Attorney General shall,~~
33 ~~in writing, and as soon as practicable, notify the person requesting~~
34 ~~electronic storage of the record that the request has been honored~~
35 ~~as required by this paragraph.~~

