

AMENDED IN SENATE JUNE 25, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 334

Introduced by Assembly Member Levine

February 13, 2007

An act to amend ~~Section 12001~~ *Sections 12001 and 12077* of, and to add Section 12043 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 334, as amended, Levine. Firearms: loss and theft.

Existing law defines "firearm" and provides that for certain purposes, including certain offenses, "firearm" includes the frame or receiver of the weapon.

This bill would provide that the term "firearm" also includes the frame or receiver of the weapon for purposes of the offense of failure to report a stolen or lost firearm.

Existing law generally regulates the possession of firearms.

This bill would make it an infraction for any person whose handgun is stolen or irretrievably lost to, within 5 working days after his or her discovery or knowledge of, or within 5 working days after the date he or she should reasonably have known of, the theft or loss, fail to report the theft or loss to a local law enforcement agency of the jurisdiction in which the theft or loss occurred or in which the person resides. ~~The bill would require specified notices of this requirement to persons acquiring handguns after July 1, 2008, as specified. The bill would provide that local governments are not prohibited from enacting ordinances imposing reporting requirements that are more strict than those specified in the bill. The bill would require the Attorney General, in cooperation with law enforcement agencies and firearms-related~~

organizations to develop a protocol for the implementation of these provisions, as specified, on or before April 1, 2008. *The protocol would include requirements that peace officers notify victims of theft of the requirement to report missing or lost handguns, and requirements that the peace officer assist the victim, to the extent practicable, in identifying the make, model, and serial number of the victim's lost or stolen handgun.*

By creating a new crime, this bill would impose a state-mandated local program. *By imposing additional duties on local peace officers, this bill would impose a state-mandated local program.*

Existing law requires the Department of Justice to prescribe the form of the register and the record of electronic transfer in connection with information recorded and forwarded to the department by firearms dealers in connection with handgun sales, as specified.

This bill would require these documents to contain an advisement regarding the requirement of a handgun owner to report a missing or lost handgun, as specified. The bill would make other technical changes.

This bill would incorporate additional changes to Section 12001 of the Penal Code, proposed in AB 854, to be operative only if AB 854 and this bill are enacted, and each bill amends Section 12001 of the Penal Code, and this bill is enacted after AB 854.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~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 12001 of the Penal Code is amended to
2 read:
3 12001. (a) (1) As used in this title, the terms “pistol,”
4 “revolver,” and “firearm capable of being concealed upon the
5 person” shall apply to and include any device designed to be used
6 as a weapon, from which is expelled a projectile by the force of
7 any explosion, or other form of combustion, and that has a barrel
8 less than 16 inches in length. These terms also include any device
9 that has a barrel 16 inches or more in length which is designed to
10 be interchanged with a barrel less than 16 inches in length.
11 (2) As used in this title, the term “handgun” means any “pistol,”
12 “revolver,” or “firearm capable of being concealed upon the
13 person.”
14 (b) As used in this title, “firearm” means any device, designed
15 to be used as a weapon, from which is expelled through a barrel,
16 a projectile by the force of any explosion or other form of
17 combustion.
18 (c) As used in Sections 12021, 12021.1, 12043, 12070, 12071,
19 12072, 12073, 12078, 12101, and 12801 of this code, and Sections
20 8100, 8101, and 8103 of the Welfare and Institutions Code, the
21 term “firearm” includes the frame or receiver of the weapon.
22 (d) For the purposes of Sections 12025 and 12031, the term
23 “firearm” also shall include any rocket, rocket propelled projectile
24 launcher, or similar device containing any explosive or incendiary
25 material whether or not the device is designed for emergency or
26 distress signaling purposes.
27 (e) For purposes of Sections 12043, 12070, 12071, and
28 paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and
29 (f) of Section 12072, the term “firearm” does not include an
30 unloaded firearm that is defined as an “antique firearm” in Section
31 921(a)(16) of Title 18 of the United States Code.
32 (f) Nothing shall prevent a device defined as a “handgun,”
33 “pistol,” “revolver,” or “firearm capable of being concealed upon
34 the person” from also being found to be a short-barreled shotgun
35 or a short-barreled rifle, as defined in Section 12020.
36 (g) For purposes of Sections 12551 and 12552, the term “BB
37 device” means any instrument that expels a projectile, such as a

1 BB or a pellet, not exceeding 6mm caliber, through the force of
2 air pressure, gas pressure, or spring action, or any spot marker gun.

3 (h) As used in this title, “wholesaler” means any person who is
4 licensed as a dealer pursuant to Chapter 44 (commencing with
5 Section 921) of Title 18 of the United States Code and the
6 regulations issued pursuant thereto who sells, transfers, or assigns
7 firearms, or parts of firearms, to persons who are licensed as
8 manufacturers, importers, or gunsmiths pursuant to Chapter 44
9 (commencing with Section 921) of Title 18 of the United States
10 Code, or persons licensed pursuant to Section 12071, and includes
11 persons who receive finished parts of firearms and assemble them
12 into completed or partially completed firearms in furtherance of
13 that purpose.

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

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

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

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

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

34 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
35 12072, 12073, 12078, 12101, and 12801 of this code, and Sections
36 8100, 8101, and 8103 of the Welfare and Institutions Code,
37 notwithstanding the fact that the term “any firearm” may be used
38 in those sections, each firearm or the frame or receiver of the same
39 shall constitute a distinct and separate offense under those sections.

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

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

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

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

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

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

19 (4) He or she is the owner of a handgun.

20 (5) He or she acquired that handgun outside of California.

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

23 (7) He or she intends to possess that handgun within this state
24 on or after January 1, 1998.

25 (8) The handgun was not delivered to him or her by a person
26 licensed pursuant to Section 12071 who delivered that firearm
27 following the procedures set forth in Section 12071 and subdivision
28 (c) of Section 12072.

29 (9) He or she, while a resident of this state, had not previously
30 reported his or her ownership of that handgun to the Department
31 of Justice in a manner prescribed by the department that included
32 information concerning him or her and a description of the firearm.

33 (10) The handgun is not a firearm that is prohibited by
34 subdivision (a) of Section 12020.

35 (11) The handgun is not an assault weapon, as defined in Section
36 12276 or 12276.1.

37 (12) The handgun is not a machinegun, as defined in Section
38 12200.

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

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

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

4 (2) In the case of members of the Armed Forces of the United
5 States, residency shall be deemed to be established when he or she
6 was discharged from active service in this state.

7 (p) As used in this code, “basic firearms safety certificate”
8 means a certificate issued by the Department of Justice pursuant
9 to Article 8 (commencing with Section 12800) of Chapter 6 of
10 Title 2 of Part 4, prior to January 1, 2003.

11 (q) As used in this code, “handgun safety certificate” means a
12 certificate issued by the Department of Justice pursuant to Article
13 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
14 4, as that article is operative on or after January 1, 2003.

15 (r) As used in this title, “gunsmith” means any person who is
16 licensed as a dealer pursuant to Chapter 44 (commencing with
17 Section 921) of Title 18 of the United States Code and the
18 regulations issued pursuant thereto, who is engaged primarily in
19 the business of repairing firearms, or making or fitting special
20 barrels, stocks, or trigger mechanisms to firearms, or the agent or
21 employee of that person.

22 *SEC. 1.5. Section 12001 of the Penal Code is amended to read:*

23 12001. (a) (1) As used in this title, the terms “pistol,”
24 “revolver,” and “firearm capable of being concealed upon the
25 person” shall apply to and include any device designed to be used
26 as a weapon, from which is expelled a projectile by the force of
27 any explosion, or other form of combustion, and that has a barrel
28 less than 16 inches in length. These terms also include any device
29 that has a barrel 16 inches or more in length which is designed to
30 be interchanged with a barrel less than 16 inches in length.

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

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

38 (c) As used in Sections 12021, 12021.1, 12043, 12070, 12071,
39 12072, 12073, 12078, 12101, and 12801 of this code, and Sections

1 8100, 8101, and 8103 of the Welfare and Institutions Code, the
2 term “firearm” includes the frame or receiver of the weapon.

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

8 (e) For purposes of Sections 12043, 12070, 12071, and
9 paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and
10 (f) of Section 12072, the term “firearm” does not include an
11 unloaded firearm that is defined as an “antique firearm” in Section
12 921(a)(16) of Title 18 of the United States Code.

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

17 (g) For purposes of Sections 12551 and 12552, the term “BB
18 device” means any instrument that expels a projectile, such as a
19 BB or a pellet, not exceeding 6mm caliber, through the force of
20 air pressure, gas pressure, or spring action, or any spot marker gun.

21 (h) As used in this title, “wholesaler” means any person who is
22 licensed as a dealer pursuant to Chapter 44 (commencing with
23 Section 921) of Title 18 of the United States Code and the
24 regulations issued pursuant thereto who sells, transfers, or assigns
25 firearms, or parts of firearms, to persons who are licensed as
26 manufacturers, importers, or gunsmiths pursuant to Chapter 44
27 (commencing with Section 921) of Title 18 of the United States
28 Code, or persons licensed pursuant to Section 12071, and includes
29 persons who receive finished parts of firearms and assemble them
30 into completed or partially completed firearms in furtherance of
31 that purpose.

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

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

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

4 (2) The initial completion and transmission to the department
5 of the record of electronic or telephonic transfer by the dealer on
6 the purchaser, transferee, or person being loaned the firearm as
7 required by subdivision (c) of Section 12076.

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

12 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
13 12072, 12073, 12078, 12101, and 12801 of this code, and Sections
14 8100, 8101, and 8103 of the Welfare and Institutions Code,
15 notwithstanding the fact that the term “any firearm” may be used
16 in those sections, each firearm or the frame or receiver of the same
17 shall constitute a distinct and separate offense under those sections.

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

21 (m) Each application that requires any firearms eligibility
22 determination involving the issuance of any license, permit, or
23 certificate pursuant to this title shall include two copies of the
24 applicant’s fingerprints on forms prescribed by the Department of
25 Justice. One copy of the fingerprints may be submitted to the
26 United States Federal Bureau of Investigation.

27 (n) As used in this chapter, a “personal handgun importer”
28 means an individual who meets all of the following criteria:

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

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

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

36 (4) He or she is the owner of a ~~pistol, revolver, or other firearm~~
37 ~~capable of being concealed upon the person~~ *handgun*.

38 (5) He or she acquired that ~~pistol, revolver, or other firearm~~
39 ~~capable of being concealed upon the person~~ *handgun* outside of
40 California.

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

3 (7) He or she intends to possess that ~~pistol, revolver, or other~~
4 ~~firearm capable of being concealed upon the person handgun~~ within
5 this state on or after January 1, 1998.

6 (8) The ~~pistol, revolver, or other firearm capable of being~~
7 ~~concealed upon the person handgun~~ was not delivered to him or
8 her by a person licensed pursuant to Section 12071 who delivered
9 that firearm following the procedures set forth in Section 12071
10 and subdivision (c) of Section 12072.

11 (9) He or she, while a resident of this state, had not previously
12 reported his or her ownership of that ~~pistol, revolver, or other~~
13 ~~firearm capable of being concealed upon the person handgun~~ to
14 the Department of Justice in a manner prescribed by the department
15 that included information concerning him or her and a description
16 of the firearm.

17 (10) The ~~pistol, revolver, or other firearm capable of being~~
18 ~~concealed upon the person handgun~~ is not a firearm that is
19 prohibited by subdivision (a) of Section 12020.

20 (11) The ~~pistol, revolver, or other firearm capable of being~~
21 ~~concealed upon the person handgun~~ is not an assault weapon, as
22 defined in Section 12276 or 12276.1.

23 (12) The ~~pistol, revolver, or other firearm capable of being~~
24 ~~concealed upon the person handgun~~ is not a machinegun, as defined
25 in Section 12200.

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

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

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

31 (2) In the case of members of the Armed Forces of the United
32 States, residency shall be deemed to be established when he or she
33 was discharged from active service in this state.

34 (p) As used in this code, “basic firearms safety certificate”
35 means a certificate issued by the Department of Justice pursuant
36 to Article 8 (commencing with Section 12800) of Chapter 6 of
37 Title 2 of Part 4, prior to January 1, 2003.

38 (q) As used in this code, “handgun safety certificate” means a
39 certificate issued by the Department of Justice pursuant to Article

1 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
2 4, as that article is operative on or after January 1, 2003.

3 (r) As used in this title, “gunsmith” means any person who is
4 licensed as a dealer pursuant to Chapter 44 (commencing with
5 Section 921) of Title 18 of the United States Code and the
6 regulations issued pursuant thereto, who is engaged primarily in
7 the business of repairing firearms, or making or fitting special
8 barrels, stocks, or trigger mechanisms to firearms, or the agent or
9 employee of that person.

10 (s) *As used in this title, “consultant-evaluator” means a*
11 *consultant or evaluator who, in the course of his or her profession*
12 *is loaned firearms from a person licensed pursuant to Chapter 44*
13 *(commencing with Section 921) of Title 18 of the United States*
14 *Code and the regulations issued pursuant thereto, for his or her*
15 *research or evaluation, and has a current certificate of eligibility*
16 *issued to him or her pursuant to Section 12071.*

17 SEC. 2. Section 12043 is added to the Penal Code, to read:

18 12043. (a) Any person who acquires or reacquires ownership
19 of a handgun, or who reports his or her ownership of a handgun
20 to the Department of Justice on or after July 1, 2008, and thereafter
21 the handgun is stolen or ~~irretrievably~~ lost, shall, within five working
22 days after his or her discovery or knowledge of, or within five
23 working days after the date he or she should reasonably have
24 known of, the theft or loss, report the theft or loss to a local law
25 enforcement agency of the jurisdiction in which the theft or loss
26 occurred or in which the person resides.

27 (b) Any person who violates subdivision (a) is guilty of an
28 infraction punishable as follows:

29 (1) For a first violation of this section, by a fine not to exceed
30 one hundred dollars (\$100).

31 (2) For a second or subsequent violation of this section, by a
32 fine not to exceed two hundred fifty dollars (\$250).

33 (c) Any person who complies with subdivision (a) shall be
34 immune from any civil liability for the illicit use or possession of
35 the firearm occurring after the theft or loss. This subdivision shall
36 not apply if the person had prior knowledge of the misconduct or
37 was negligent with respect to the theft or loss of the firearm.

38 (d) No charge may be imposed for submitting a report pursuant
39 to this section.

1 (e) The Department of Justice shall, in promulgating forms and
2 reports pursuant to any provision of law, *other than Section 12077*,
3 that requires or allows a person to report his or her ownership of
4 a handgun to the department, include information indicating the
5 reporting requirements of this section.

6 ~~(f) Commencing July 1, 2008, the licensee shall, at the time of~~
7 ~~delivering a handgun to a person acquiring ownership or to a person~~
8 ~~complying with the requirements of paragraph (2) of subdivision~~
9 ~~(f) of Section 12072, provide the person with a written notice of~~
10 ~~the requirements of this section in a format prescribed by the~~
11 ~~department. The licensee shall sign and date an affidavit in~~
12 ~~duplicate stating that the person receiving the handgun has been~~
13 ~~given the notice. The licensee shall additionally obtain the signature~~
14 ~~of the person receiving the handgun on the same affidavit. The~~
15 ~~licensee shall retain the original affidavit and provide the duplicate~~
16 ~~to the person receiving the handgun.~~

17 ~~(g) Nothing in this section shall be construed to preempt an~~
18 ~~existing ordinance or to prevent a local government from enacting~~
19 ~~an ordinance, that imposes reporting requirements that are more~~
20 ~~strict than those specified in subdivision (a).~~

21 ~~(h)~~

22 (f) Compliance with this section does not require that a person
23 reporting a lost or stolen handgun report the make, model, and
24 serial number of the handgun.

25 ~~(i)~~

26 (g) The Attorney General, in cooperation with those law
27 enforcement agencies and firearms-related organizations as may
28 choose to do so, shall develop a protocol for the implementation
29 of the provisions of this section. *The protocol shall include*
30 *requirements that peace officers notify victims of theft of the*
31 *provisions of this section and assist victims in identifying, to the*
32 *extent practicable, the make, model, and serial number of their*
33 *handguns that are lost or stolen.* The protocol shall be completed
34 on or before April 1, 2008.

35 ~~(j)~~

36 (h) The provisions of this section are cumulative and shall not
37 be construed as restricting the application of any other law.
38 However, an act or omission punishable in different ways by this
39 section and different provisions of this code shall not be punished
40 under more than one provision.

1 *SEC. 3. Section 12077 of the Penal Code is amended to read:*

2 12077. (a) The Department of Justice shall prescribe the form
3 of the register and the record of electronic transfer pursuant to
4 Section 12074.

5 (b) (1) For handguns, information contained in the register or
6 record of electronic transfer shall be the date and time of sale,
7 make of firearm, peace officer exemption status pursuant to
8 subdivision (a) of Section 12078 and the agency name, ~~dealer~~
9 ~~waiting period exemption pursuant to subdivision (n) of Section~~
10 ~~12078, dangerous weapons permit holder waiting period exemption~~
11 ~~pursuant to subdivision (r) of Section 12078, curio and relic waiting~~
12 ~~period exemption pursuant to subdivision (t) of Section 12078 any~~
13 *applicable waiting period exemption*, California Firearms Dealer
14 number issued pursuant to Section 12071, for transactions
15 occurring prior to January 1, 2003, the purchaser's basic firearms
16 safety certificate number issued pursuant to Sections 12805 and
17 12809, for transactions occurring on or after January 1, 2003, the
18 purchaser's handgun safety certificate number issued pursuant to
19 Article 8 (commencing with Section 12800), manufacturer's name
20 if stamped on the firearm, model name or number, if stamped on
21 the firearm, if applicable, serial number, other number (if more
22 than one serial number is stamped on the firearm), any
23 identification number or mark assigned to the firearm pursuant to
24 Section 12092, caliber, type of firearm, if the firearm is new or
25 used, barrel length, color of the firearm, full name of purchaser,
26 purchaser's complete date of birth, purchaser's local address, if
27 current address is temporary, complete permanent address of
28 purchaser, identification of purchaser, purchaser's place of birth
29 (state or country), purchaser's complete telephone number,
30 purchaser's occupation, purchaser's sex, purchaser's physical
31 description, all legal names and aliases ever used by the purchaser,
32 yes or no answer to questions that prohibit purchase including, but
33 not limited to, conviction of a felony as described in Section 12021
34 or an offense described in Section 12021.1, the purchaser's status
35 as a person described in Section 8100 of the Welfare and
36 Institutions Code, whether the purchaser is a person who has been
37 adjudicated by a court to be a danger to others or found not guilty
38 by reason of insanity, whether the purchaser is a person who has
39 been found incompetent to stand trial or placed under
40 conservatorship by a court pursuant to Section 8103 of the Welfare

1 and Institutions Code, signature of purchaser, signature of
2 salesperson (as a witness to the purchaser's signature),
3 salesperson's certificate of eligibility number if he or she has
4 obtained a certificate of eligibility, name and complete address of
5 the dealer or firm selling the firearm as shown on the dealer's
6 license, the establishment number, if assigned, the dealer's
7 complete business telephone number, any information required by
8 Section 12082, any information required to determine whether or
9 not paragraph (6) of subdivision (c) of Section 12072 applies, *an*
10 *advisement of the requirement set forth in Section 12043 to report*
11 *handguns that are stolen or lost, within five working days after*
12 *his or her discovery or knowledge of, or within five working days*
13 *after the date he or she should reasonably have known of, the theft*
14 *or loss, to a local law enforcement agency of the jurisdiction in*
15 *which the theft or loss occurred or in which the person resides,*
16 and a statement of the penalties for any person signing a fictitious
17 name or address or for knowingly furnishing any incorrect
18 information or for knowingly omitting any information required
19 to be provided for the register.

20 (2) Effective January 1, 2003, the purchaser shall provide his
21 or her right thumbprint on the register in a manner prescribed by
22 the department. No exception to this requirement shall be permitted
23 except by regulations adopted by the department.

24 (3) The firearms dealer shall record on the register or record of
25 electronic transfer the date that the handgun is delivered.

26 (c) (1) For firearms other than handguns, information contained
27 in the register or record of electronic transfer shall be the date and
28 time of sale, peace officer exemption status pursuant to subdivision
29 (a) of Section 12078 and the agency name, ~~auction or event waiting~~
30 ~~period exemption pursuant to subdivision (g) of Section 12078,~~
31 California Firearms Dealer number issued pursuant to Section
32 12071, ~~dangerous weapons permit holder waiting period exemption~~
33 ~~pursuant to subdivision (r) of Section 12078, curio and relic waiting~~
34 ~~period exemption pursuant to paragraph (1) of subdivision (t) of~~
35 ~~Section 12078~~ *any applicable waiting period exemption*, full name
36 of purchaser, purchaser's complete date of birth, purchaser's local
37 address, if current address is temporary, complete permanent
38 address of purchaser, identification of purchaser, purchaser's place
39 of birth (state or country), purchaser's complete telephone number,
40 purchaser's occupation, purchaser's sex, purchaser's physical

1 description, all legal names and aliases ever used by the purchaser,
2 yes or no answer to questions that prohibit purchase, including,
3 but not limited to, conviction of a felony as described in Section
4 12021 or an offense described in Section 12021.1, the purchaser's
5 status as a person described in Section 8100 of the Welfare and
6 Institutions Code, whether the purchaser is a person who has been
7 adjudicated by a court to be a danger to others or found not guilty
8 by reason of insanity, whether the purchaser is a person who has
9 been found incompetent to stand trial or placed under
10 conservatorship by a court pursuant to Section 8103 of the Welfare
11 and Institutions Code, signature of purchaser, signature of
12 salesperson (as a witness to the purchaser's signature),
13 salesperson's certificate of eligibility number if he or she has
14 obtained a certificate of eligibility, name and complete address of
15 the dealer or firm selling the firearm as shown on the dealer's
16 license, the establishment number, if assigned, the dealer's
17 complete business telephone number, any information required by
18 Section 12082, *an advisement of the requirement set forth in*
19 *Section 12043 to report handguns that are stolen or lost, within*
20 *five working days after his or her discovery or knowledge of, or*
21 *within five working days after the date he or she should reasonably*
22 *have known of, the theft or loss, to a local law enforcement agency*
23 *of the jurisdiction in which the theft or loss occurred or in which*
24 *the person resides, and a statement of the penalties for any person*
25 *signing a fictitious name or address or for knowingly furnishing*
26 *any incorrect information or for knowingly omitting any*
27 *information required to be provided for the register.*

28 (2) Effective January 1, 2003, the purchaser shall provide his
29 or her right thumbprint on the register in a manner prescribed by
30 the department. No exception to this requirement shall be permitted
31 except by regulations adopted by the department.

32 (3) The firearms dealer shall record on the register or record of
33 electronic transfer the date that the firearm is delivered.

34 (d) Where the register is used, the following shall apply:

35 (1) Dealers shall use ink to complete each document.

36 (2) The dealer or salesperson making a sale shall ensure that all
37 information is provided legibly. The dealer and salespersons shall
38 be informed that incomplete or illegible information will delay
39 sales.

1 (3) Each dealer shall be provided instructions regarding the
2 procedure for completion of the form and routing of the form.
3 Dealers shall comply with these instructions which shall include
4 the information set forth in this subdivision.

5 (4) One firearm transaction shall be reported on each record of
6 sale document. For purposes of this subdivision, a “transaction”
7 means a single sale, loan, or transfer of any number of firearms
8 that are not handguns.

9 (e) The dealer or salesperson making a sale shall ensure that all
10 required information has been obtained from the purchaser. The
11 dealer and all salespersons shall be informed that incomplete
12 information will delay sales.

13 (f) Effective January 1, 2003, the purchaser’s name, date of
14 birth, and driver’s license or identification number shall be obtained
15 electronically from the magnetic strip on the purchaser’s driver’s
16 license or identification and shall not be supplied by any other
17 means except as authorized by the department. This requirement
18 shall not apply in either of the following cases:

19 (1) The purchaser’s identification consists of a military
20 identification card.

21 (2) Due to technical limitations, the magnetic stripe reader is
22 unable to obtain the required information from the purchaser’s
23 identification. In those circumstances, the firearms dealer shall
24 obtain a photocopy of the identification as proof of compliance.

25 (3) In the event that the dealer has reported to the department
26 that the dealer’s equipment has failed, information pursuant to this
27 subdivision shall be obtained by an alternative method to be
28 determined by the department.

29 (g) As used in this section, the following definitions shall
30 control:

31 (1) “Purchaser” means the purchaser or transferee of a firearm
32 or the person being loaned a firearm.

33 (2) “Purchase” means the purchase, loan, or transfer of a firearm.

34 (3) “Sale” means the sale, loan, or transfer of a firearm.

35 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
36 ~~Section 6 of Article XIII B of the California Constitution because~~
37 ~~the only costs that may be incurred by a local agency or school~~
38 ~~district will be incurred because this act creates a new crime or~~
39 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
40 ~~for a crime or infraction, within the meaning of Section 17556 of~~

1 ~~the Government Code, or changes the definition of a crime within~~
2 ~~the meaning of Section 6 of Article XIII B of the California~~
3 ~~Constitution.~~

4 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
5 *Section 12001 of the Penal Code proposed by both this bill and*
6 *AB 854. It shall only become operative if (1) both bills are enacted*
7 *and become effective on or before January 1, 2008, (2) each bill*
8 *amends Section 12001 of the Penal Code, and (3) this bill is*
9 *enacted after AB 854, in which case Section 1 of this bill shall not*
10 *become operative.*

11 *SEC. 5. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution for certain*
13 *costs that may be incurred by a local agency or school district*
14 *because, in that regard, this act creates a new crime or infraction,*
15 *eliminates a crime or infraction, or changes the penalty for a crime*
16 *or infraction, within the meaning of Section 17556 of the*
17 *Government Code, or changes the definition of a crime within the*
18 *meaning of Section 6 of Article XIII B of the California*
19 *Constitution.*

20 *However, if the Commission on State Mandates determines that*
21 *this act contains other costs mandated by the state, reimbursement*
22 *to local agencies and school districts for those costs shall be made*
23 *pursuant to Part 7 (commencing with Section 17500) of Division*
24 *4 of Title 2 of the Government Code.*