

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1105**

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**Introduced by Assembly Member Garrick**

February 23, 2007

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An act to ~~amend Section 12001 of~~ *add and repeal Section 12786.5* of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1105, as amended, Garrick. Firearms.

Existing law generally defines firearms for regulatory purpose. *Existing law requires specified information about a firearms purchaser to be forwarded to the Department of Justice for determination of whether the applicant is a person prohibited from acquiring a firearm, as specified.*

~~This bill would make technical, nonsubstantive changes to those provisions~~ *require the department, on or before July 1, 2008, to submit to the Legislature a report, as specified, containing information about the time required by the department to process each application to purchase a firearm, the number of applications that have been denied by the department, the Dealers' Record of Sale Special Account, and how the waiting period for the delivery of firearms can be reduced. This bill would provide that these provisions would remain in effect until January 1, 2009, and as of that date are repealed.*

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

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

1     SECTION 1. *Section 12786.5 is added to the Penal Code, to*  
2 *read:*

3     12786.5. (a) *On or before July 1, 2008, the Department of*  
4 *Justice shall submit to the Legislature a report containing all of*  
5 *the following information:*

6     (1) *The time required by the department to process each*  
7 *application to purchase a firearm in accordance with Sections*  
8 *12071, 12072, and 12076.*

9     (2) *The number of applications made to purchase firearms that*  
10 *have been denied by the department.*

11     (3) *The amount of funds in the Dealers’ Record of Sale Special*  
12 *Account of the General Fund.*

13     (4) *The amount of moneys or fees deposited into the Dealers’*  
14 *Record of Sale Special Account authorized by each applicable*  
15 *section of the Penal Code.*

16     (5) *The amount of funds expended by the department by category*  
17 *from the Dealers’ Record of Sale Special Account.*

18     (6) *What specific actions would be required to reduce the*  
19 *existing waiting period for the delivery of firearms consistent with*  
20 *the current system of background checks from the current 10 days,*  
21 *to three and five days.*

22     (b) *This section shall remain in effect only until January 1, 2009,*  
23 *and as of that date is repealed, unless a later enacted statute, that*  
24 *is enacted before January 1, 2009, deletes or extends that date.*

25     SECTION 1. ~~Section 12001 of the Penal Code is amended to~~  
26 ~~read:~~

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

35     ~~(2) As used in this title, the term “handgun” means any “pistol,”~~  
36 ~~“revolver,” or “firearm capable of being concealed upon the~~  
37 ~~person.”~~

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

5 ~~(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,~~  
6 ~~12073, 12078, 12101, and 12801 of this code, and Sections 8100,~~  
7 ~~8101, and 8103 of the Welfare and Institutions Code, the term~~  
8 ~~“firearm” includes the frame or receiver of the weapon.~~

9 ~~(d) For the purposes of Sections 12025 and 12031, the term~~  
10 ~~“firearm” also shall include any rocket, rocket propelled projectile~~  
11 ~~launcher, or similar device containing any explosive or incendiary~~  
12 ~~material whether or not the device is designed for emergency or~~  
13 ~~distress signaling purposes.~~

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

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

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

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

38 ~~“Wholesaler” shall not include a manufacturer, importer, or~~  
39 ~~gunsmith who is licensed to engage in those activities pursuant to~~  
40 ~~Chapter 44 (commencing with Section 921) of Title 18 of the~~

1 United States Code or a person licensed pursuant to Section 12071  
2 and the regulations issued pursuant thereto. A wholesaler also does  
3 not include those persons dealing exclusively in grips, stocks, and  
4 other parts of firearms that are not frames or receivers thereof.

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

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

10 (2) ~~The initial completion and transmission to the department~~  
11 ~~of the record of electronic or telephonic transfer by the dealer on~~  
12 ~~the purchaser, transferee, or person being loaned the firearm as~~  
13 ~~required by subdivision (c) of Section 12076.~~

14 (j) ~~For purposes of Section 12023, a firearm shall be deemed~~  
15 ~~to be “loaded” whenever both the firearm and the unexpended~~  
16 ~~ammunition capable of being discharged from the firearm are in~~  
17 ~~the immediate possession of the same person.~~

18 (k) ~~For purposes of Sections 12021, 12021.1, 12025, 12070,~~  
19 ~~12072, 12073, 12078, 12101, and 12801 of this code, and Sections~~  
20 ~~8100, 8101, and 8103 of the Welfare and Institutions Code,~~  
21 ~~notwithstanding the fact that the term “any firearm” may be used~~  
22 ~~in those sections, each firearm or the frame or receiver of the same~~  
23 ~~shall constitute a distinct and separate offense under those sections.~~

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

27 (m) ~~Each application that requires any firearms eligibility~~  
28 ~~determination involving the issuance of any license, permit, or~~  
29 ~~certificate pursuant to this title shall include two copies of the~~  
30 ~~applicant’s fingerprints on forms prescribed by the Department of~~  
31 ~~Justice. One copy of the fingerprints may be submitted to the~~  
32 ~~United States Federal Bureau of Investigation.~~

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

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

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

- 1 ~~(3) He or she is not a licensed importer of firearms pursuant to~~  
2 ~~Chapter 44 (commencing with Section 921) of Title 18 of the~~  
3 ~~United States Code and the regulations issued pursuant thereto.~~  
4 ~~(4) He or she is the owner of a handgun.~~  
5 ~~(5) He or she acquired that handgun outside of California.~~  
6 ~~(6) He or she moves into this state on or after January 1, 1998,~~  
7 ~~as a resident of this state.~~  
8 ~~(7) He or she intends to possess that handgun within this state~~  
9 ~~on or after January 1, 1998.~~  
10 ~~(8) The handgun was not delivered to him or her by a person~~  
11 ~~licensed pursuant to Section 12071 who delivered that firearm~~  
12 ~~following the procedures set forth in Section 12071 and subdivision~~  
13 ~~(c) of Section 12072.~~  
14 ~~(9) He or she, while a resident of this state, had not previously~~  
15 ~~reported his or her ownership of that handgun to the Department~~  
16 ~~of Justice in a manner prescribed by the department that included~~  
17 ~~information concerning him or her and a description of the firearm.~~  
18 ~~(10) The handgun is not a firearm that is prohibited by~~  
19 ~~subdivision (a) of Section 12020.~~  
20 ~~(11) The handgun is not an assault weapon, as defined in Section~~  
21 ~~12276 or 12276.1.~~  
22 ~~(12) The handgun is not a machinegun, as defined in Section~~  
23 ~~12200.~~  
24 ~~(13) The person is 18 years of age or older.~~  
25 ~~(o) For purposes of paragraph (6) of subdivision (n):~~  
26 ~~(1) Except as provided in paragraph (2), residency shall be~~  
27 ~~determined in the same manner as is the case for establishing~~  
28 ~~residency pursuant to Section 12505 of the Vehicle Code.~~  
29 ~~(2) In the case of members of the Armed Forces of the United~~  
30 ~~States, residency shall be deemed to be established when he or she~~  
31 ~~was discharged from active service in this state.~~  
32 ~~(p) As used in this code, “basic firearms safety certificate”~~  
33 ~~means a certificate issued by the Department of Justice pursuant~~  
34 ~~to Article 8 (commencing with Section 12800) of Chapter 6 of~~  
35 ~~Title 2 of Part 4, prior to January 1, 2003.~~  
36 ~~(q) As used in this code, “handgun safety certificate” means a~~  
37 ~~certificate issued by the Department of Justice pursuant to Article~~  
38 ~~8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part~~  
39 ~~4, as that article is operative on or after January 1, 2003.~~

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

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