

AMENDED IN ASSEMBLY JUNE 7, 2010
AMENDED IN ASSEMBLY FEBRUARY 23, 2010
AMENDED IN ASSEMBLY JUNE 24, 2009
AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 282

Introduced by Senator Wright

February 24, 2009

An act to amend Sections 12061 and 12077 of the Penal Code, relating to deadly weapons transaction records.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as amended, Wright. Deadly weapons transaction records: firearms and ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party, or use the information for ~~business purposes~~ *any purpose other than what is required or authorized by statute or regulation*, without the written consent of the purchaser or transferee. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law requires certain information *to* be collected by firearms dealers in connection with the transfer of firearms and submitted to the Department of Justice, as specified.

This bill would provide that no firearms dealer shall provide the information required by those provisions to any 3rd party, or use the information for ~~any business purposes not required by those provisions~~, *purpose other than what is required or authorized by statute or regulation*, without the written consent of the purchaser or transferee.

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 12061 of the Penal Code is amended to
- 2 read:
- 3 12061. (a) A vendor shall comply with all of the following
- 4 conditions, requirements, and prohibitions:
- 5 (1) A vendor shall not permit any employee who the vendor
- 6 knows or reasonably should know is a person described in Section
- 7 12021 or 12021.1 of this code or Section 8100 or 8103 of the
- 8 Welfare and Institutions Code to handle, sell, or deliver handgun
- 9 ammunition in the course and scope of his or her employment.

1 (2) A vendor shall not sell or otherwise transfer ownership of,
2 offer for sale or otherwise offer to transfer ownership of, or display
3 for sale or display for transfer of ownership of any handgun
4 ammunition in a manner that allows that ammunition to be
5 accessible to a purchaser or transferee without the assistance of
6 the vendor or employee thereof.

7 (3) Commencing February 1, 2011, a vendor shall not sell or
8 otherwise transfer ownership of any handgun ammunition without,
9 at the time of delivery, legibly recording the following information:

10 (A) The date of the sale or other transaction.

11 (B) The purchaser's or transferee's driver's license or other
12 identification number and the state in which it was issued.

13 (C) The brand, type, and amount of ammunition sold or
14 otherwise transferred.

15 (D) The purchaser's or transferee's signature.

16 (E) The name of the salesperson who processed the sale or other
17 transaction.

18 (F) The right thumbprint of the purchaser or transferee on the
19 above form.

20 (G) The purchaser's or transferee's full residential address and
21 telephone number.

22 (H) The purchaser's or transferee's date of birth.

23 (4) Commencing February 1, 2011, the records required by this
24 section shall be maintained on the premises of the vendor for a
25 period of not less than five years from the date of the recorded
26 transfer. Commencing February 1, 2011, except for the purposes
27 set forth in paragraph (5), no vendor shall provide the information
28 specified in paragraph (3) to any third party, or use the information
29 for any ~~business purposes~~ *purpose other than what is required or*
30 *authorized by statute or regulation*, without the written consent
31 of the purchaser or transferee. Any records required by this section
32 that are no longer required to be maintained shall be destroyed in
33 a manner that protects the privacy of the purchaser or transferee
34 who is the subject of the record.

35 (5) Commencing February 1, 2011, the records referred to in
36 paragraph (3) shall be subject to inspection at any time during
37 normal business hours by any peace officer employed by a sheriff,
38 city police department, or district attorney as provided in
39 subdivision (a) of Section 830.1, or employed by the department
40 as provided in subdivision (b) of Section 830.1, provided the officer

1 is conducting an investigation where access to those records is or
2 may be relevant to that investigation, is seeking information about
3 persons prohibited from owning a firearm or ammunition, or is
4 engaged in ensuring compliance with the Dangerous Weapons
5 Control Law (Chapter 1 (commencing with Section 12000) of Title
6 2 of Part 4), or any other laws pertaining to firearms or ammunition.
7 The records shall also be subject to inspection at any time during
8 normal business hours by any other employee of the department,
9 provided that employee is conducting an investigation where access
10 to those records is or may be relevant to that investigation, is
11 seeking information about persons prohibited from owning a
12 firearm or ammunition, or is engaged in ensuring compliance with
13 the Dangerous Weapons Control Law (Chapter 1 (commencing
14 with Section 12000) of Title 2 of Part 4), or any other laws
15 pertaining to firearms or ammunition.

16 (6) Commencing February 1, 2011, the vendor shall not
17 knowingly make a false entry in, fail to make a required entry in,
18 fail to obtain the required thumbprint, or otherwise fail to maintain
19 in the required manner records prepared in accordance with
20 paragraph (2). If the right thumbprint is not available, then the
21 vendor shall have the purchaser or transferee use his or her left
22 thumb, or any available finger, and shall so indicate on the form.
23 If the purchaser or transferee is physically unable to provide a
24 thumbprint or fingerprint, the vendor shall so indicate on the form.

25 (7) Commencing February 1, 2011, no vendor shall refuse to
26 permit a person authorized under paragraph (5) to examine any
27 record prepared in accordance with this section during any
28 inspection conducted pursuant to this section, or refuse to permit
29 the use of any record or information by those persons.

30 (b) Paragraph (3) of subdivision (a) shall not apply to or affect
31 sales or other transfers of ownership of handgun ammunition by
32 handgun ammunition vendors to any of the following, if properly
33 identified:

- 34 (1) A person licensed pursuant to Section 12071.
- 35 (2) A handgun ammunition vendor.
- 36 (3) A person who is on the centralized list maintained by the
37 department pursuant to Section 12083.
- 38 (4) A target facility which holds a business or regulatory license.
- 39 (5) Gunsmiths.
- 40 (6) Wholesalers.

1 (7) Manufacturers or importers of firearms licensed pursuant
2 to Chapter 44 (commencing with Section 921) of Title 18 of the
3 United States Code, and the regulations issued pursuant thereto.

4 (8) Sales or other transfers of ownership made to authorized
5 law enforcement representatives of cities, counties, cities and
6 counties, or state or federal governments for exclusive use by those
7 government agencies if, prior to the delivery, transfer, or sale of
8 handgun ammunition, written authorization from the head of the
9 agency authorizing the transaction is presented to the person from
10 whom the purchase, delivery, or transfer is being made. Proper
11 written authorization is defined as verifiable written certification
12 from the head of the agency by which the purchaser, transferee,
13 or person otherwise acquiring ownership is employed, identifying
14 the employee as an individual authorized to conduct the transaction,
15 and authorizing the transaction for the exclusive use of the agency
16 by which he or she is employed.

17 (c) (1) A violation of paragraph (3), (4), (6), or (7) of
18 subdivision (a) is a misdemeanor.

19 (2) The provisions of this subdivision are cumulative, and shall
20 not be construed as restricting the application of any other law.
21 However, an act or omission punishable in different ways by
22 different provisions of law shall not be punished under more than
23 one provision.

24 SEC. 2. Section 12077 of the Penal Code is amended to read:

25 12077. (a) The Department of Justice shall prescribe the form
26 of the register and the record of electronic transfer pursuant to
27 Section 12074.

28 (b) (1) For handguns, information contained in the register or
29 record of electronic transfer shall be the date and time of sale,
30 make of firearm, peace officer exemption status pursuant to
31 subdivision (a) of Section 12078 and the agency name, dealer
32 waiting period exemption pursuant to subdivision (n) of Section
33 12078, dangerous weapons permitholder waiting period exemption
34 pursuant to subdivision (r) of Section 12078, curio and relic waiting
35 period exemption pursuant to subdivision (t) of Section 12078,
36 California Firearms Dealer number issued pursuant to Section
37 12071, for transactions occurring prior to January 1, 2003, the
38 purchaser's basic firearms safety certificate number issued pursuant
39 to Sections 12805 and 12809, for transactions occurring on or after
40 January 1, 2003, the purchaser's handgun safety certificate number

1 issued pursuant to Article 8 (commencing with Section 12800),
2 manufacturer's name if stamped on the firearm, model name or
3 number, if stamped on the firearm, if applicable, serial number,
4 other number (if more than one serial number is stamped on the
5 firearm), any identification number or mark assigned to the firearm
6 pursuant to Section 12092, caliber, type of firearm, if the firearm
7 is new or used, barrel length, color of the firearm, full name of
8 purchaser, purchaser's complete date of birth, purchaser's local
9 address, if current address is temporary, complete permanent
10 address of purchaser, identification of purchaser, purchaser's place
11 of birth (state or country), purchaser's complete telephone number,
12 purchaser's occupation, purchaser's sex, purchaser's physical
13 description, all legal names and aliases ever used by the purchaser,
14 yes or no answer to questions that prohibit purchase including, but
15 not limited to, conviction of a felony as described in Section 12021
16 or an offense described in Section 12021.1, the purchaser's status
17 as a person described in Section 8100 of the Welfare and
18 Institutions Code, whether the purchaser is a person who has been
19 adjudicated by a court to be a danger to others or found not guilty
20 by reason of insanity, whether the purchaser is a person who has
21 been found incompetent to stand trial or placed under
22 conservatorship by a court pursuant to Section 8103 of the Welfare
23 and Institutions Code, signature of purchaser, signature of
24 salesperson (as a witness to the purchaser's signature),
25 salesperson's certificate of eligibility number if he or she has
26 obtained a certificate of eligibility, name and complete address of
27 the dealer or firm selling the firearm as shown on the dealer's
28 license, the establishment number, if assigned, the dealer's
29 complete business telephone number, any information required by
30 Section 12082, any information required to determine whether or
31 not paragraph (6) of subdivision (c) of Section 12072 applies, and
32 a statement of the penalties for any person signing a fictitious name
33 or address or for knowingly furnishing any incorrect information
34 or for knowingly omitting any information required to be provided
35 for the register.

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

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

3 (c) (1) For firearms other than handguns, information contained
4 in the register or record of electronic transfer shall be the date and
5 time of sale, peace officer exemption status pursuant to subdivision
6 (a) of Section 12078 and the agency name, auction or event waiting
7 period exemption pursuant to subdivision (g) of Section 12078,
8 California Firearms Dealer number issued pursuant to Section
9 12071, dangerous weapons permit holder waiting period exemption
10 pursuant to subdivision (r) of Section 12078, curio and relic waiting
11 period exemption pursuant to paragraph (1) of subdivision (t) of
12 Section 12078, full name of purchaser, purchaser's complete date
13 of birth, purchaser's local address, if current address is temporary,
14 complete permanent address of purchaser, identification of
15 purchaser, purchaser's place of birth (state or country), purchaser's
16 complete telephone number, purchaser's occupation, purchaser's
17 sex, purchaser's physical description, all legal names and aliases
18 ever used by the purchaser, yes or no answer to questions that
19 prohibit purchase, including, but not limited to, conviction of a
20 felony as described in Section 12021 or an offense described in
21 Section 12021.1, the purchaser's status as a person described in
22 Section 8100 of the Welfare and Institutions Code, whether the
23 purchaser is a person who has been adjudicated by a court to be a
24 danger to others or found not guilty by reason of insanity, whether
25 the purchaser is a person who has been found incompetent to stand
26 trial or placed under conservatorship by a court pursuant to Section
27 8103 of the Welfare and Institutions Code, signature of purchaser,
28 signature of salesperson (as a witness to the purchaser's signature),
29 salesperson's certificate of eligibility number if he or she has
30 obtained a certificate of eligibility, name and complete address of
31 the dealer or firm selling the firearm as shown on the dealer's
32 license, the establishment number, if assigned, the dealer's
33 complete business telephone number, any information required by
34 Section 12082, and a statement of the penalties for any person
35 signing a fictitious name or address or for knowingly furnishing
36 any incorrect information or for knowingly omitting any
37 information required to be provided for the register.

38 (2) Effective January 1, 2003, the purchaser shall provide his
39 or her right thumbprint on the register in a manner prescribed by

1 the department. No exception to this requirement shall be permitted
2 except by regulations adopted by the department.

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

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

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

7 (2) The dealer or salesperson making a sale shall ensure that all
8 information is provided legibly. The dealer and salespersons shall
9 be informed that incomplete or illegible information will delay
10 sales.

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

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

19 (e) The dealer or salesperson making a sale shall ensure that all
20 required information has been obtained from the purchaser. The
21 dealer and all salespersons shall be informed that incomplete
22 information will delay sales.

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

29 (1) The purchaser’s identification consists of a military
30 identification card.

31 (2) Due to technical limitations, the magnetic ~~stripe~~ *strip* reader
32 is unable to obtain the required information from the purchaser’s
33 identification. In those circumstances, the firearms dealer shall
34 obtain a photocopy of the identification as proof of compliance.

35 (3) In the event that the dealer has reported to the department
36 that the dealer’s equipment has failed, information pursuant to this
37 subdivision shall be obtained by an alternative method to be
38 determined by the department.

39 (g) No dealer shall provide the information required by this
40 section to any third party, or use the information for any ~~business~~

1 ~~purposes not required by this section~~ *purpose other than what is*
2 *required or authorized by statute or regulation*, without the written
3 consent of the purchaser or transferee.

4 (h) As used in this section, the following definitions shall
5 control:

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

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

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

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.