

AMENDED IN ASSEMBLY AUGUST 17, 2010
AMENDED IN ASSEMBLY AUGUST 2, 2010
AMENDED IN ASSEMBLY JUNE 23, 2010
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 Section 12077 of, and to add Section 12062 to, 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 any purpose other than as 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 *specified* 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 purpose other than as is required or authorized by statute or regulation, without the written consent of the purchaser or transferee, *except for purposes of 3rd-party electronic submission to the department*. The bill would also provide that any of these records that are no longer required to be maintained, if destroyed, shall be destroyed in a *specified* manner ~~that protects the privacy of the purchaser or transferee who is the subject of the record~~.

This bill would incorporate amendments to Section 12077 of the Penal Code proposed by AB 1810, contingent on the prior enactment of that bill.

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.

This bill would provide that these provisions shall only become operative if AB 2358 of the 2009–10 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2011.

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 12062 is added to the Penal Code, to
2 read:

3 12062. (a) Commencing February 1, 2011, except for the
4 purposes set forth in paragraph (5) of subdivision (a) of Section
5 12061, no vendor shall provide the information specified in
6 paragraph (3) of subdivision (a) of Section 12061 to any third
7 party, or use the information for any purpose other than as is
8 required or authorized by statute or regulation, without the written
9 consent of the purchaser or transferee of the handgun ammunition
10 who is the subject of the record.

11 (b) Any records generated pursuant to Section 12061 that are
12 no longer required to be maintained shall be destroyed ~~in a manner~~
13 ~~that protects the privacy of the purchaser or transferee who is the~~
14 ~~subject of the record.~~ *pursuant to Section 1798.81 of the Civil*
15 *Code.*

16 (c) A violation of this section is a misdemeanor.

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

18 12077. (a) The Department of Justice shall prescribe the form
19 of the register and the record of electronic transfer pursuant to
20 Section 12074.

21 (b) (1) For handguns, information contained in the register or
22 record of electronic transfer shall be the date and time of sale,
23 make of firearm, peace officer exemption status pursuant to
24 subdivision (a) of Section 12078 and the agency name, dealer
25 waiting period exemption pursuant to subdivision (n) of Section
26 12078, dangerous weapons permitholder waiting period exemption
27 pursuant to subdivision (r) of Section 12078, curio and relic waiting
28 period exemption pursuant to subdivision (t) of Section 12078,
29 California Firearms Dealer number issued pursuant to Section
30 12071, for transactions occurring prior to January 1, 2003, the
31 purchaser's basic firearms safety certificate number issued pursuant
32 to Sections 12805 and 12809, for transactions occurring on or after
33 January 1, 2003, the purchaser's handgun safety certificate number
34 issued pursuant to Article 8 (commencing with Section 12800),
35 manufacturer's name if stamped on the firearm, model name or

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

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

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

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

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted 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 firearm is delivered.

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

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

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

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

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

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

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

27 (1) The purchaser’s identification consists of a military
28 identification card.

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

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

37 (g) No dealer shall provide the information required by this
38 section to any third party, or use the information for any purpose
39 other than as is required or authorized by statute or regulation,
40 without the written consent of the purchaser or transferee. *This*

subdivision shall not apply to the electronic submission to the department, through a third party authorized by the department, of information required by this section and Section 12076.

(h) Any records generated pursuant to this section by a person licensed pursuant to Section 12071 that are no longer required to be maintained by that licensee, if destroyed, shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record, pursuant to Section 1798.81 of the Civil Code.

(i) As used in this section, the following definitions shall control:

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

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

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

SEC. 2.5. Section 12077 of the Penal Code is amended to read:

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

(b) (1) ~~For handguns, Until July 1, 2012, for handguns, and thereafter for all firearms,~~ information contained in the register or record of electronic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, *auction or event waiting period exemption pursuant to subdivision (g) of Section 12078*, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permit holder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser’s basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser’s handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer’s name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, *provided however, that if the firearm is not a*

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

32 ~~(2) Effective January 1, 2003, the~~ *The purchaser shall provide*
33 *his or her right thumbprint on the register in a manner prescribed*
34 *by the department. No exception to this requirement shall be*
35 *permitted except by regulations adopted by the department.*

36 (3) The firearms dealer shall record on the register or record of
37 electronic transfer the date that the ~~handgun~~ *firearm* is delivered.

38 (c) (1) For firearms other than handguns, information contained
39 in the register or record of electronic transfer shall be the date and
40 time of sale, peace officer exemption status pursuant to subdivision

(a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

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

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

(4) This subdivision shall become inoperative on July 1, 2012.

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

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

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

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

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

14 (e) The dealer or salesperson making a sale shall ensure that all
15 required information has been obtained from the purchaser. The
16 dealer and all salespersons shall be informed that incomplete
17 information will delay sales.

18 (f) ~~Effective January 1, 2003, the~~ The purchaser's name, date
19 of birth, and driver's license or identification number shall be
20 obtained electronically from the magnetic strip on the purchaser's
21 driver's license or identification and shall not be supplied by any
22 other means except as authorized by the department. This
23 requirement shall not apply in either of the following cases:

24 (1) The purchaser's identification consists of a military
25 identification card.

26 (2) Due to technical limitations, the magnetic ~~stripe~~ *strip* reader
27 is unable to obtain the required information from the purchaser's
28 identification. In those circumstances, the firearms dealer shall
29 obtain a photocopy of the identification as proof of compliance.

30 (3) In the event that the dealer has reported to the department
31 that the dealer's equipment has failed, information pursuant to this
32 subdivision shall be obtained by an alternative method to be
33 determined by the department.

34 (g) *No dealer shall provide the information required by this*
35 *section to any third party, or use the information for any purpose*
36 *other than as is required or authorized by statute or regulation,*
37 *without the written consent of the purchaser or transferee.*

38 (h) *Any records generated pursuant to this section by a person*
39 *licensed pursuant to Section 12071 that are no longer required to*
40 *be maintained by that licensee, if destroyed, shall be destroyed*

1 pursuant to Section 1798.81 of the Civil Code. This subdivision
2 shall not apply to the electronic submission to the department,
3 through a third party authorized by the department, of information
4 required by this section and Section 12076.

5 (g)

6 (i) As used in this section, the following definitions shall control:

7 (1) "Purchaser" means the purchaser or transferee of a firearm
8 or the person being loaned a firearm.

9 (2) "Purchase" means the purchase, loan, or transfer of a firearm.

10 (3) "Sale" means the sale, loan, or transfer of a firearm.

11 SEC. 2.7. Section 2.5 of this bill incorporates amendments to
12 Section 12077 of the Penal Code proposed by both this bill and
13 AB 1810. It shall only become operative if (1) both bills are enacted
14 and become effective on or before January 1, 2011, (2) each bill
15 amends Section 12077 of the Penal Code, and (3) this bill is
16 enacted after AB 1810, in which case Section 2 of this bill shall
17 not become operative.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 SEC. 4. This act shall only become operative if Assembly Bill
28 2358 of the 2009–10 Regular Session of the Legislature is enacted
29 and becomes effective on or before January 1, 2011.