

AMENDED IN ASSEMBLY AUGUST 20, 2010
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. 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.

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 pursuant
13 to Section 1798.81 of the Civil Code.

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

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

16 12077. (a) The Department of Justice shall prescribe the form
17 of the register and the record of electronic transfer pursuant to
18 Section 12074.

19 (b) (1) For handguns, information contained in the register or
20 record of electronic transfer shall be the date and time of sale,
21 make of firearm, peace officer exemption status pursuant to
22 subdivision (a) of Section 12078 and the agency name, dealer
23 waiting period exemption pursuant to subdivision (n) of Section
24 12078, dangerous weapons permitholder waiting period exemption
25 pursuant to subdivision (r) of Section 12078, curio and relic waiting
26 period exemption pursuant to subdivision (t) of Section 12078,
27 California Firearms Dealer number issued pursuant to Section
28 12071, for transactions occurring prior to January 1, 2003, the
29 purchaser's basic firearms safety certificate number issued pursuant
30 to Sections 12805 and 12809, for transactions occurring on or after
31 January 1, 2003, the purchaser's handgun safety certificate number
32 issued pursuant to Article 8 (commencing with Section 12800),
33 manufacturer's name if stamped on the firearm, model name or
34 number, if stamped on the firearm, if applicable, serial number,
35 other number (if more than one serial number is stamped on the
36 firearm), any identification number or mark assigned to the firearm
37 pursuant to Section 12092, caliber, type of firearm, if the firearm
38 is new or used, barrel length, color of the firearm, full name of

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

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

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

35 (c) (1) For firearms other than handguns, information contained
36 in the register or record of electronic transfer shall be the date and
37 time of sale, peace officer exemption status pursuant to subdivision
38 (a) of Section 12078 and the agency name, auction or event waiting
39 period exemption pursuant to subdivision (g) of Section 12078,
40 California Firearms Dealer number issued pursuant to Section

1 12071, dangerous weapons permit holder waiting period exemption
2 pursuant to subdivision (r) of Section 12078, curio and relic waiting
3 period exemption pursuant to paragraph (1) of subdivision (t) of
4 Section 12078, full name of purchaser, purchaser's complete date
5 of birth, purchaser's local address, if current address is temporary,
6 complete permanent address of purchaser, identification of
7 purchaser, purchaser's place of birth (state or country), purchaser's
8 complete telephone number, purchaser's occupation, purchaser's
9 sex, purchaser's physical description, all legal names and aliases
10 ever used by the purchaser, yes or no answer to questions that
11 prohibit purchase, including, but not limited to, conviction of a
12 felony as described in Section 12021 or an offense described in
13 Section 12021.1, the purchaser's status as a person described in
14 Section 8100 of the Welfare and Institutions Code, whether the
15 purchaser is a person who has been adjudicated by a court to be a
16 danger to others or found not guilty by reason of insanity, whether
17 the 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, and a statement of the penalties for any person
27 signing a fictitious name or address or for knowingly furnishing
28 any incorrect information or for knowingly omitting any
29 information required to be provided for the register.

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

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

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

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

38 (2) The dealer or salesperson making a sale shall ensure that all
39 information is provided legibly. The dealer and salespersons shall

1 be informed that incomplete or illegible information will delay
2 sales.

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

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

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

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

21 (1) The purchaser’s identification consists of a military
22 identification card.

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

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

31 (g) No dealer shall provide the information required by this
32 section to any third party, or use the information for any purpose
33 other than as is required or authorized by statute or regulation,
34 without the written consent of the purchaser or transferee. This
35 subdivision shall not apply to the electronic submission to the
36 department, through a third party authorized by the department,
37 of information required by this section and Section 12076.

38 (h) Any records generated pursuant to this section by a person
39 licensed pursuant to Section 12071 that are no longer required to

1 be maintained by that licensee, if destroyed, shall be destroyed
2 pursuant to Section 1798.81 of the Civil Code.

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

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

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

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

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

9 12077. (a) The Department of Justice shall prescribe the form
10 of the register and the record of electronic transfer pursuant to
11 Section 12074.

12 (b) (1) Until July 1, 2012, for handguns, and thereafter for all
13 firearms, information contained in the register or record of
14 electronic transfer shall be the date and time of sale, make of
15 firearm, peace officer exemption status pursuant to subdivision
16 (a) of Section 12078 and the agency name, auction or event waiting
17 period exemption pursuant to subdivision (g) of Section 12078,
18 dealer waiting period exemption pursuant to subdivision (n) of
19 Section 12078, dangerous weapons permit holder waiting period
20 exemption pursuant to subdivision (r) of Section 12078, curio and
21 relic waiting period exemption pursuant to subdivision (t) of
22 Section 12078, California Firearms Dealer number issued pursuant
23 to Section 12071, for transactions occurring prior to January 1,
24 2003, the purchaser's basic firearms safety certificate number
25 issued pursuant to Sections 12805 and 12809, for transactions
26 occurring on or after January 1, 2003, the purchaser's handgun
27 safety certificate number issued pursuant to Article 8 (commencing
28 with Section 12800), manufacturer's name if stamped on the
29 firearm, model name or number, if stamped on the firearm, if
30 applicable, serial number, other number (if more than one serial
31 number is stamped on the firearm), any identification number or
32 mark assigned to the firearm pursuant to Section 12092, provided
33 however, that if the firearm is not a handgun and does not have a
34 serial number, identification number, or mark assigned to it, a
35 notation as to that fact, the caliber, type of firearm, if the firearm
36 is new or used, barrel length, color of the firearm, full name of
37 purchaser, purchaser's complete date of birth, purchaser's local
38 address, if current address is temporary, complete permanent
39 address of purchaser, identification of purchaser, purchaser's place
40 of birth (state or country), purchaser's complete telephone number,

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

25 (2) The purchaser shall provide his or her right thumbprint on
26 the register in a manner prescribed by the department. No exception
27 to this requirement shall be permitted except by regulations adopted
28 by the department.

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

31 (c) (1) For firearms other than handguns, information contained
32 in the register or record of electronic transfer shall be the date and
33 time of sale, peace officer exemption status pursuant to subdivision
34 (a) of Section 12078 and the agency name, auction or event waiting
35 period exemption pursuant to subdivision (g) of Section 12078,
36 California Firearms Dealer number issued pursuant to Section
37 12071, dangerous weapons permitholder waiting period exemption
38 pursuant to subdivision (r) of Section 12078, curio and relic waiting
39 period exemption pursuant to paragraph (1) of subdivision (t) of
40 Section 12078, full name of purchaser, purchaser's complete date

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

26 (2) The purchaser shall provide his or her right thumbprint on
27 the register in a manner prescribed by the department. No exception
28 to this requirement shall be permitted except by regulations adopted
29 by the department.

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

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

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

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

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

39 (3) Each dealer shall be provided instructions regarding the
40 procedure for completion of the form and routing of the form.

1 Dealers shall comply with these instructions which shall include
2 the information set forth in this subdivision.

3 (4) One firearm transaction shall be reported on each record of
4 sale document.

5 (e) The dealer or salesperson making a sale shall ensure that all
6 required information has been obtained from the purchaser. The
7 dealer and all salespersons shall be informed that incomplete
8 information will delay sales.

9 (f) The purchaser's name, date of birth, and driver's license or
10 identification number shall be obtained electronically from the
11 magnetic strip on the purchaser's driver's license or identification
12 and shall not be supplied by any other means except as authorized
13 by the department. This requirement shall not apply in either of
14 the following cases:

15 (1) The purchaser's identification consists of a military
16 identification card.

17 (2) Due to technical limitations, the magnetic strip reader is
18 unable to obtain the required information from the purchaser's
19 identification. In those circumstances, the firearms dealer shall
20 obtain a photocopy of the identification as proof of compliance.

21 (3) In the event that the dealer has reported to the department
22 that the dealer's equipment has failed, information pursuant to this
23 subdivision shall be obtained by an alternative method to be
24 determined by the department.

25 (g) No dealer shall provide the information required by this
26 section to any third party, or use the information for any purpose
27 other than as is required or authorized by statute or regulation,
28 without the written consent of the purchaser or transferee. *This*
29 *subdivision shall not apply to the electronic submission to the*
30 *department, through a third party authorized by the department,*
31 *of information required by this section and Section 12076.*

32 (h) Any records generated pursuant to this section by a person
33 licensed pursuant to Section 12071 that are no longer required to
34 be maintained by that licensee, if destroyed, shall be destroyed
35 pursuant to Section 1798.81 of the Civil Code. ~~This subdivision~~
36 ~~shall not apply to the electronic submission to the department,~~
37 ~~through a third party authorized by the department, of information~~
38 ~~required by this section and Section 12076.~~

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

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

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

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

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

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

21 SEC. 4. This act shall only become operative if Assembly Bill
22 2358 of the 2009–10 Regular Session of the Legislature is enacted
23 and becomes effective on or before January 1, 2011.