

**ASSEMBLY BILL**

**No. 829**

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**Introduced by Assembly Member Knight**

February 17, 2011

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An act to amend Sections ~~538d~~, 16690, 25450, 25900, and 26300 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 829, as amended, Knight. Peace officers: firearms.

~~(1) Existing law authorizes the head of an agency employing certain categories of peace officers to issue identification in the form of a badge, insignia, emblem, device, label, certificate, card, or writing that clearly states that the person has honorably retired following service as a peace officer from that agency. Existing law also permits these agencies to revoke this identification in the event of misuse or abuse.~~

~~This bill would expand this authorization to any agency listed in certain provisions of law, as specified.~~

~~(2)~~

~~(1) Existing law defines "honorably retired" for purposes of certain provisions of law involving the carrying of concealed weapons as a peace officer who has qualified for, and has accepted, a service or disability retirement.~~

~~This bill would instead define "honorably retired" for these purposes as a peace officer who has met his or her department's years of service requirement, and has accepted a separation of service or disability retirement.~~

~~(3)~~

(2) Existing law requires a *retired* peace officer who was authorized to, and did, carry a firearm during the course and scope of employment as a peace officer to have an endorsement on ~~their~~ *his or her* identification certificate stating that the issuing agency approves of the officer’s carrying of a concealed and loaded firearm.

This bill would provide that these provisions also apply to *retired* level I ~~and level H~~ reserve officers, as specified, who have served at least ~~15~~ 10 years in the aggregate, *as specified*, as a ~~California~~ level I reserve peace officer.

~~(4)~~

(3) Various provisions of existing law state that the ban on the carrying of concealed weapons does not apply to honorably retired peace officers who were authorized to carry firearms during the course and scope of their employment as peace officers.

This bill would state that the exemption applies to honorably retired peace officers who were authorized to carry firearms during the course and scope of their appointment as peace officers.

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

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

1 SECTION 1. ~~Section 538d of the Penal Code, as amended by~~  
 2 ~~Section 58 of Chapter 178 of the Statutes of 2010, is amended to~~  
 3 ~~read:~~  
 4 ~~538d. (a) Any person other than one who by law is given the~~  
 5 ~~authority of a peace officer, who willfully wears, exhibits, or uses~~  
 6 ~~the authorized uniform, insignia, emblem, device, label, certificate,~~  
 7 ~~card, or writing, of a peace officer, with the intent of fraudulently~~  
 8 ~~impersonating a peace officer, or of fraudulently inducing the~~  
 9 ~~belief that he or she is a peace officer, is guilty of a misdemeanor.~~  
 10 ~~(b) (1) Any person, other than the one who by law is given the~~  
 11 ~~authority of a peace officer, who willfully wears, exhibits, or uses~~  
 12 ~~the badge of a peace officer with the intent of fraudulently~~  
 13 ~~impersonating a peace officer, or of fraudulently inducing the~~  
 14 ~~belief that he or she is a peace officer, is guilty of a misdemeanor~~  
 15 ~~punishable by imprisonment in a county jail not to exceed one~~  
 16 ~~year, by a fine not to exceed two thousand dollars (\$2,000), or by~~  
 17 ~~both that imprisonment and fine.~~

1     ~~(2) Any person who willfully wears or uses any badge that~~  
2 ~~falsely purports to be authorized for the use of one who by law is~~  
3 ~~given the authority of a peace officer, or which so resembles the~~  
4 ~~authorized badge of a peace officer as would deceive any ordinary~~  
5 ~~reasonable person into believing that it is authorized for the use~~  
6 ~~of one who by law is given the authority of a peace officer, for the~~  
7 ~~purpose of fraudulently impersonating a peace officer, or of~~  
8 ~~fraudulently inducing the belief that he or she is a peace officer,~~  
9 ~~is guilty of a misdemeanor punishable by imprisonment in a county~~  
10 ~~jail not to exceed one year, by a fine not to exceed two thousand~~  
11 ~~dollars (\$2,000), or by both that imprisonment and fine.~~

12     ~~(e) Except as provided in subdivision (d), any person who~~  
13 ~~willfully wears, exhibits, or uses, or who willfully makes, sells,~~  
14 ~~loans, gives, or transfers to another, any badge, insignia, emblem,~~  
15 ~~device, or any label, certificate, card, or writing, which falsely~~  
16 ~~purports to be authorized for the use of one who by law is given~~  
17 ~~the authority of a peace officer, or which so resembles the~~  
18 ~~authorized badge, insignia, emblem, device, label, certificate, card,~~  
19 ~~or writing of a peace officer as would deceive an ordinary~~  
20 ~~reasonable person into believing that it is authorized for the use~~  
21 ~~of one who by law is given the authority of a peace officer, is guilty~~  
22 ~~of a misdemeanor, except that any person who makes or sells any~~  
23 ~~badge under the circumstances described in this subdivision is~~  
24 ~~subject to a fine not to exceed fifteen thousand dollars (\$15,000).~~

25     ~~(d) (1) The head of an agency listed in Sections 830.1 to 830.6,~~  
26 ~~inclusive, is authorized to issue identification in the form of a~~  
27 ~~badge, insignia, emblem, device, label, certificate, card, or writing~~  
28 ~~that clearly states that the person has honorably retired following~~  
29 ~~service as a peace officer from that agency. The identification~~  
30 ~~authorized pursuant to this subdivision is separate and distinct~~  
31 ~~from the identification authorized by Article 2 (commencing with~~  
32 ~~Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.~~

33     ~~(2) If the head of an agency issues a badge to an honorably~~  
34 ~~retired peace officer that is not affixed to a plaque or other~~  
35 ~~memento commemorating the retiree's service for the agency, the~~  
36 ~~words "Honorably Retired" shall be clearly visible above,~~  
37 ~~underneath, or on the badge itself.~~

38     ~~(3) The head of an agency listed in Sections 830.1 to 830.6,~~  
39 ~~inclusive, is authorized to revoke identification granted pursuant~~  
40 ~~to this subdivision in the event of misuse or abuse.~~

1     ~~(4) For the purposes of this subdivision, the term “honorably~~  
 2 ~~retired” does not include an officer who has agreed to a service~~  
 3 ~~retirement in lieu of termination.~~

4     ~~(e) (1) Vendors of law enforcement uniforms shall verify that~~  
 5 ~~a person purchasing a uniform identifying a law enforcement~~  
 6 ~~agency is an employee of the agency identified on the uniform.~~  
 7 ~~Presentation and examination of a valid identification card with a~~  
 8 ~~picture of the person purchasing the uniform and identification;~~  
 9 ~~on the letterhead of the law enforcement agency, of the person~~  
 10 ~~buying the uniform as an employee of the agency identified on the~~  
 11 ~~uniform shall be sufficient verification.~~

12     ~~(2) Any uniform vendor who sells a uniform identifying a law~~  
 13 ~~enforcement agency, without verifying that the purchaser is an~~  
 14 ~~employee of the agency, is guilty of a misdemeanor, punishable~~  
 15 ~~by a fine of not more than one thousand dollars (\$1,000).~~

16     ~~(3) This subdivision shall not apply if the uniform is to be used~~  
 17 ~~solely as a prop for a motion picture, television, video production,~~  
 18 ~~or a theatrical event, and prior written permission has been obtained~~  
 19 ~~from the identified law enforcement agency.~~

20     ~~SEC. 2:~~

21     ~~SECTION 1.~~ Section 16690 of the Penal Code is amended to  
 22 read:

23     16690. As used in Sections 25650 and 26020, Article 2  
 24 (commencing with Section 25450) of Chapter 2 of Division 5 of  
 25 Title 4, and Article 3 (commencing with Section 25900) of Chapter  
 26 3 of Division 5 of Title 4, “honorably retired” includes any peace  
 27 officer who has met his or her department’s years of service  
 28 requirement, and has accepted a separation of service or disability  
 29 retirement. As used in those provisions, “honorably retired” does  
 30 not include an officer who has agreed to a service retirement in  
 31 lieu of termination.

32     ~~SEC. 3:~~

33     ~~SEC. 2.~~ Section 25450 of the Penal Code is amended to read:

34     25450. As provided in this article, Section 25400 does not  
 35 apply to, or affect, any of the following:

36     (a) Any peace officer, listed in Section 830.1 or 830.2, or  
 37 subdivision (a) of Section 830.33, whether active or honorably  
 38 retired.

39     (b) Any other duly appointed peace officer.

1 (c) Any honorably retired peace officer listed in subdivision (c)  
2 of Section 830.5.

3 (d) Any other honorably retired peace officer who during the  
4 course and scope of his or her appointment as a peace officer was  
5 authorized to, and did, carry a firearm.

6 (e) Any full-time paid peace officer of another state or the  
7 federal government who is carrying out official duties while in  
8 California.

9 (f) Any person summoned by any of these officers to assist in  
10 making arrests or preserving the peace while the person is actually  
11 engaged in assisting that officer.

12 ~~SEC. 4.~~

13 *SEC. 3.* Section 25900 of the Penal Code is amended to read:  
14 25900. As provided in this article, Section 25850 does not  
15 apply to any of the following:

16 (a) Any peace officer, listed in Section 830.1 or 830.2, or  
17 subdivision (a) of Section 830.33, whether active or honorably  
18 retired.

19 (b) Any other duly appointed peace officer.

20 (c) Any honorably retired peace officer listed in subdivision (c)  
21 of Section 830.5.

22 (d) Any other honorably retired peace officer who during the  
23 course and scope of his or her appointment as a peace officer was  
24 authorized to, and did, carry a firearm.

25 (e) Any full-time paid peace officer of another state or the  
26 federal government who is carrying out official duties while in  
27 California.

28 (f) Any person summoned by any of these officers to assist in  
29 making arrests or preserving the peace while the person is actually  
30 engaged in assisting that officer.

31 ~~SEC. 5.~~

32 *SEC. 4.* Section 26300 of the Penal Code is amended to read:  
33 26300. (a) Any peace officer listed in Section 830.1 or 830.2  
34 or subdivision (c) of Section 830.5 who retired prior to January 1,  
35 1981, is authorized to carry a concealed and loaded firearm if the  
36 agency issued the officer an identification certificate and the  
37 certificate has not been stamped as specified in Section 25470.

38 (b) Any peace officer employed by an agency and listed in  
39 Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who  
40 retired after January 1, 1981, shall have an endorsement on the

1 officer's identification certificate stating that the issuing agency  
2 approves the officer's carrying of a concealed and loaded firearm.

3 (c) (1) Any peace officer not listed in subdivision (a) or (b)  
4 who was authorized to, and did, carry a firearm during the course  
5 and scope of his or her appointment as a peace officer shall have  
6 an endorsement on the officer's identification certificate stating  
7 that the issuing agency approves the officer's carrying of a  
8 concealed and loaded firearm.

9 (2) This subdivision applies to a retired reserve officer if the  
10 retired reserve officer satisfies the requirements of paragraph (1),  
11 was a level I ~~or level II~~ reserve officer as described in paragraph  
12 (1) ~~or (2)~~ of subdivision (a) of Section 832.6, and he or she served  
13 ~~at least 15 years~~ in the aggregate *a minimum amount of time as*  
14 *specified by the retiree's agency's policy as a ~~California~~ level I*  
15 *reserve ~~peace~~ officer, provided that the policy shall not set an*  
16 *aggregate term requirement that is less than 10 years or more*  
17 *than 20 years.*