

AMENDED IN SENATE AUGUST 12, 2013  
AMENDED IN ASSEMBLY MAY 6, 2013  
AMENDED IN ASSEMBLY APRIL 18, 2013  
AMENDED IN ASSEMBLY APRIL 11, 2013  
AMENDED IN ASSEMBLY MARCH 21, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 231**

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**Introduced by Assembly Members Ting and Gomez**

February 5, 2013

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An act to amend Sections 25100 ~~and~~, 25110, *and* 26835 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 231, as amended, Ting. Firearms: criminal storage.

Existing law establishes the offenses of criminal storage of a firearm in the first degree, when *a person keeps a loaded firearm within any premises under his or her custody or control, the person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or guardian, and a child obtains access to a person's loaded firearm resulting in death or great bodily injury, as specified, and criminal storage of a firearm in the 2nd degree, where when under those circumstances, the child obtains access to the firearm resulting in injury other than great bodily injury or the firearm is carried off premises, as specified.* Existing law provides several exceptions to these offenses, including, among others, when a child obtains the firearm as a result of illegal entry to the premises;

~~when the firearm is locked with a locking device, or when a child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person.~~ Existing law makes the first degree offense punishable as a felony or misdemeanor with specified penalties and makes the 2nd degree offense punishable as a misdemeanor with specified penalties.

This bill would establish the offense of criminal storage of a firearm in the 3rd degree, when a person keeps a loaded firearm within any premises under his or her custody or control and negligently stores or leaves a loaded firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access to the firearm *without the permission of the child’s parent or legal guardian*, unless reasonable action is taken by the person to secure the firearm against access by the child. The bill would make the offense punishable as a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

*Existing law requires a firearms dealer to conspicuously post specified warnings in the dealer’s licensed premises, including, among others, warnings regarding the criminal storage of firearms and the penalties for those offenses.*

*This bill would make conforming changes to those required warnings to reflect the offense of criminal storage of a firearm in the 3rd degree.*

*This bill would incorporate changes to Section 25100 of the Penal Code proposed by SB 363 that would become operative if this bill and SB 363 are both chaptered and this bill is chaptered last.*

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 25100 of the Penal Code is amended to
- 2 read:
- 3 25100. (a) Except as provided in Section 25105, a person
- 4 commits the crime of “criminal storage of a firearm in the first
- 5 degree” if all of the following conditions are satisfied:

1 (1) The person keeps any loaded firearm within any premises  
2 that are under the person’s custody or control.

3 (2) The person knows or reasonably should know that a child  
4 is likely to gain access to the firearm without the permission of  
5 the child’s parent or legal guardian.

6 (3) The child obtains access to the firearm and thereby causes  
7 death or great bodily injury to the child or any other person.

8 (b) Except as provided in Section 25105, a person commits the  
9 crime of “criminal storage of a firearm in the second degree” if all  
10 of the following conditions are satisfied:

11 (1) The person keeps any loaded firearm within any premises  
12 that are under the person’s custody or control.

13 (2) The person knows or reasonably should know that a child  
14 is likely to gain access to the firearm without the permission of  
15 the child’s parent or legal guardian.

16 (3) The child obtains access to the firearm and thereby causes  
17 injury, other than great bodily injury, to the child or any other  
18 person, or carries the firearm either to a public place or in violation  
19 of Section 417.

20 (c) Except as provided in Section 25105, a person commits the  
21 crime of “criminal storage of a firearm in the third degree” if the  
22 person keeps any loaded firearm within any premises that are under  
23 the person’s custody or control and negligently stores or leaves a  
24 loaded firearm in a location where the person knows, or reasonably  
25 should know, that a child is likely to gain access to the firearm  
26 *without the permission of the child’s parent or legal guardian*,  
27 unless reasonable action is taken by the person to secure the firearm  
28 against access by the child.

29 *SEC. 1.5. Section 25100 of the Penal Code is amended to read:*

30 25100. (a) Except as provided in Section 25105, a person  
31 commits the crime of “criminal storage of a firearm ~~of~~ in the first  
32 degree” if all of the following conditions are satisfied:

33 (1) The person keeps any loaded firearm within any premises  
34 that are under the person’s custody or control.

35 (2) The person knows or reasonably should know that a child  
36 is likely to gain access to the firearm without the permission of  
37 the child’s parent or legal guardian, *or that a person prohibited*  
38 *from possessing a firearm or deadly weapon pursuant to state or*  
39 *federal law is likely to gain access to the firearm.*

1 (3) The child obtains access to the firearm and thereby causes  
2 death or great bodily injury to the child or any other person, *or the*  
3 *person prohibited from possessing a firearm or deadly weapon*  
4 *pursuant to state or federal law obtains access to the firearm and*  
5 *thereby causes death or great bodily injury to himself or herself*  
6 *or any other person.*

7 (b) Except as provided in Section 25105, a person commits the  
8 crime of “criminal storage of a firearm—~~of~~ *in the second degree*”  
9 if all of the following conditions are satisfied:

10 (1) The person keeps any loaded firearm within any premises  
11 that are under the person’s custody or control.

12 (2) The person knows or reasonably should know that a child  
13 is likely to gain access to the firearm without the permission of  
14 the child’s parent or legal guardian, *or that a person prohibited*  
15 *from possessing a firearm or deadly weapon pursuant to state or*  
16 *federal law is likely to gain access to the firearm.*

17 (3) The child obtains access to the firearm and thereby causes  
18 injury, other than great bodily injury, to the child or any other  
19 person, or carries the firearm either to a public place or in violation  
20 of Section 417, *or the person prohibited from possessing a firearm*  
21 *or deadly weapon pursuant to state or federal law obtains access*  
22 *to the firearm and thereby causes injury, other than great bodily*  
23 *injury, to himself or herself or any other person, or carries the*  
24 *firearm either to a public place or in violation of Section 417.*

25 (c) *Except as provided in Section 25105, a person commits the*  
26 *crime of “criminal storage of a firearm in the third degree” if the*  
27 *person keeps any loaded firearm within any premises that are*  
28 *under the person’s custody or control and negligently stores or*  
29 *leaves a loaded firearm in a location where the person knows, or*  
30 *reasonably should know, that a child is likely to gain access to the*  
31 *firearm without the permission of the child’s parent or legal*  
32 *guardian, unless reasonable action is taken by the person to secure*  
33 *the firearm against access by the child.*

34 SEC. 2. Section 25110 of the Penal Code is amended to read:

35 25110. (a) Criminal storage of a firearm in the first degree is  
36 punishable by imprisonment pursuant to subdivision (h) of Section  
37 1170 for 16 months, or two or three years, by a fine not exceeding  
38 ten thousand dollars (\$10,000), or by both that imprisonment and  
39 fine; or by imprisonment in a county jail not exceeding one year,

1 by a fine not exceeding one thousand dollars (\$1,000), or by both  
2 that imprisonment and fine.

3 (b) Criminal storage of a firearm in the second degree is  
4 punishable by imprisonment in a county jail not exceeding one  
5 year, by a fine not exceeding one thousand dollars (\$1,000), or by  
6 both that imprisonment and fine.

7 (c) Criminal storage of a firearm in the third degree is punishable  
8 as a misdemeanor.

9 *SEC. 3. Section 26835 of the Penal Code is amended to read:*

10 26835. A licensee shall post conspicuously within the licensed  
11 premises the following warnings in block letters not less than one  
12 inch in height:

13

14 (a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY  
15 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
16 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND  
17 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES  
18 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A  
19 MISDEMEANOR OR A FELONY UNLESS YOU STORED  
20 THE FIREARM IN A LOCKED CONTAINER OR LOCKED  
21 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT  
22 FROM TEMPORARILY FUNCTIONING."

23 (b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER  
24 FIREARM CAPABLE OF BEING CONCEALED UPON THE  
25 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY  
26 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE  
27 GAINS ACCESS TO THE FIREARM, AND CARRIES IT  
28 OFF-PREMISES, YOU MAY BE GUILTY OF A  
29 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN  
30 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH  
31 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY  
32 FUNCTIONING."

33 (c) "IF YOU KEEP ANY FIREARM WITHIN ANY  
34 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
35 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO  
36 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A  
37 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE  
38 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP  
39 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU

1 STORED THE FIREARM IN A LOCKED CONTAINER, OR  
2 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

3 (d) “IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED  
4 FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY  
5 OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE  
6 IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A  
7 MISDEMEANOR, INCLUDING A FINE OF UP TO ONE  
8 THOUSAND DOLLARS (\$1,000), UNLESS YOU STORE THE  
9 FIREARM IN A LOCKED CONTAINER, OR LOCK THE  
10 FIREARM WITH A LOCKING DEVICE.”

11 (d)  
12 (e) “DISCHARGING FIREARMS IN POORLY VENTILATED  
13 AREAS, CLEANING FIREARMS, OR HANDLING  
14 AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A  
15 SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS,  
16 REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL  
17 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES.  
18 WASH HANDS THOROUGHLY AFTER EXPOSURE.”

19 (e)  
20 (f) “FEDERAL REGULATIONS PROVIDE THAT IF YOU  
21 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM  
22 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30  
23 DAYS AFTER YOU COMPLETE THE INITIAL  
24 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE  
25 TO GO THROUGH THE BACKGROUND CHECK PROCESS  
26 A SECOND TIME IN ORDER TO TAKE PHYSICAL  
27 POSSESSION OF THAT FIREARM.”

28 (f)  
29 (g) “NO PERSON SHALL MAKE AN APPLICATION TO  
30 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR  
31 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON  
32 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO  
33 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS  
34 MADE AN APPLICATION TO PURCHASE MORE THAN ONE  
35 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF  
36 BEING CONCEALED UPON THE PERSON WITHIN ANY  
37 30-DAY PERIOD.”

38  
39 SEC. 4. Section 1.5 of this bill incorporates amendments to  
40 Section 25100 of the Penal Code proposed by both this bill and

1 *Senate Bill 363. It shall only become operative if (1) both bills are*  
2 *enacted and become effective on or before January 1, 2014, (2)*  
3 *each bill amends Section 25100 of the Penal Code, and (3) this*  
4 *bill is enacted after Senate Bill 363, in which case Section 1 of this*  
5 *bill shall not become operative.*

6 ~~SEC. 3.~~

7 SEC. 5. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.

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