

AMENDED IN SENATE AUGUST 30, 2013
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

Introduced by Assembly Members Ting and Gomez

February 5, 2013

An act to amend Sections 25100, 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, 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 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 bill would also incorporate changes to Section 26835 of the Penal Code proposed by SB 299 that would become operative if this bill and SB 299 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 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 in the second degree” if all
 9 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 under
 28 the person’s custody or control and negligently stores or leaves a
 29 loaded firearm in a location where the person knows, or reasonably
 30 should know, that a child is likely to gain access to the firearm
 31 without the permission of the child’s parent or legal guardian,
 32 unless reasonable action is taken by the person to secure the firearm
 33 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
4 LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR
5 CUSTODY OR CONTROL, WHERE A PERSON UNDER 18
6 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE
7 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
8 TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU
9 ~~STORE~~ STORED THE FIREARM IN A LOCKED CONTAINER,
10 OR ~~LOCK~~ LOCKED THE FIREARM WITH A LOCKING
11 DEVICE.”

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

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

36
37 *SEC. 3.5. Section 26835 of the Penal Code is amended to read:*
38 26835. A licensee shall post conspicuously within the licensed
39 premises the following warnings in block letters not less than one
40 inch in height:

1
2 (a) “IF YOU KEEP A LOADED FIREARM WITHIN ANY
3 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
4 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
5 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
6 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
7 MISDEMEANOR OR A FELONY UNLESS YOU STORED
8 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
9 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
10 FROM TEMPORARILY FUNCTIONING.”

11 (b) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
12 FIREARM CAPABLE OF BEING CONCEALED UPON THE
13 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
14 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
15 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
16 OFF-PREMISES, YOU MAY BE GUILTY OF A
17 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
18 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
19 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
20 FUNCTIONING.”

21 (c) “IF YOU KEEP ANY FIREARM WITHIN ANY
22 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
23 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
24 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
25 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
26 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
27 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
28 STORED THE FIREARM IN A LOCKED CONTAINER, OR
29 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

30 (d) “IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED
31 FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY
32 OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE
33 IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A
34 MISDEMEANOR, INCLUDING A FINE OF UP TO ONE
35 THOUSAND DOLLARS (\$1,000), UNLESS YOU STORED THE
36 FIREARM IN A LOCKED CONTAINER, OR LOCKED THE
37 FIREARM WITH A LOCKING DEVICE.”

38 (d)

39 (e) “DISCHARGING FIREARMS IN POORLY VENTILATED
40 AREAS, CLEANING FIREARMS, OR HANDLING

1 AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A
 2 SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS,
 3 REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL
 4 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES.
 5 WASH HANDS THOROUGHLY AFTER EXPOSURE.”

6 (e)

7 (f) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
 8 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
 9 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
 10 DAYS AFTER YOU COMPLETE THE INITIAL
 11 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
 12 TO GO THROUGH THE BACKGROUND CHECK PROCESS
 13 A SECOND TIME IN ORDER TO TAKE PHYSICAL
 14 POSSESSION OF THAT FIREARM.”

15 (f)

16 (g) “NO PERSON SHALL MAKE AN APPLICATION TO
 17 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
 18 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON
 19 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO
 20 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS
 21 MADE AN APPLICATION TO PURCHASE MORE THAN ONE
 22 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF
 23 BEING CONCEALED UPON THE PERSON WITHIN ANY
 24 30-DAY PERIOD.”

25 (h) “IF A FIREARM YOU OWN OR POSSESS IS LOST OR
 26 STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A
 27 LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS
 28 OR THEFT OCCURRED WITHIN SEVEN DAYS OF THE TIME
 29 YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT
 30 THE FIREARM HAD BEEN LOST OR STOLEN.”

31 (i) “IF YOU FALSELY REPORT THAT A FIREARM YOU OWN
 32 OR POSSESS IS LOST OR STOLEN, YOU FACE CRIMINAL
 33 PROSECUTION AND LOSS OF YOUR RIGHT TO POSSESS A
 34 FIREARM OR AMMUNITION FOR 10 YEARS.”

35

36 SEC. 4. Section 1.5 of this bill incorporates amendments to
 37 Section 25100 of the Penal Code proposed by both this bill and
 38 Senate Bill 363. It shall only become operative if (1) both bills are
 39 enacted and become effective on or before January 1, 2014, (2)
 40 each bill amends Section 25100 of the Penal Code, and (3) this

1 bill is enacted after Senate Bill 363, in which case Section 1 of
2 this bill shall not become operative.

3 *SEC. 5. Section 3.5 of this bill incorporates amendments to*
4 *Section 26835 of the Penal Code proposed by both this bill and*
5 *Senate Bill 299. It shall only become operative if (1) both bills are*
6 *enacted and become effective on or before January 1, 2014, (2)*
7 *each bill amends Section 26835 of the Penal Code, and (3) this*
8 *bill is enacted after Senate Bill 299, in which case Section 3 of this*
9 *bill shall not become operative.*

10 ~~SEC. 5.~~

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