

AMENDED IN ASSEMBLY JUNE 19, 2013

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 299

Introduced by Senator DeSaulnier

February 15, 2013

An act to amend Sections 800, 16520, 26835, ~~and~~ 27535, and 29805 of, and to add Division 4.5 (commencing with Section 25250) to Title 4 of Part 6 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 299, as amended, DeSaulnier. Firearms: lost or stolen: reports.

(1) Under existing law it is a felony, punishable by imprisonment in a county jail for 2, 3, or 4 years, to knowingly sell, supply, deliver, or give possession or control of a firearm to any person within specified classes of persons prohibited from possessing a firearm. Under existing law it is a crime punishable by imprisonment in a county jail for a period not exceeding one year, or by imprisonment in a county jail for 16 months, 2, or 3 years, to knowingly supply, give, or allow possession or control of a deadly weapon to any person within specified classes of persons prohibited from possessing a deadly weapon.

Under existing law, a violation of certain specified offenses relating to the sale, lease, or transfer of firearms is punishable by imprisonment in a county jail not to exceed one year, or for 16 months, 2, or 3 years, and certain other specified offenses relating to the sale, lease, or transfer of a firearm are punishable by imprisonment in a county jail for 2, 3, or 4 years.

Existing law requires that prosecution for an offense punishable by imprisonment for 8 years or more to be commenced within 6 years after the commission of the offense.

This bill would require that prosecution for the above firearms-related offenses to be commenced within 6 years after the commission of the offense.

(1)

(2) Existing law requires each sheriff or police chief executive to submit descriptions of serialized property, or nonserialized property that has been uniquely inscribed, which has been reported stolen, lost, or found directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property. Existing law requires that information about a firearm entered into the automated system for firearms remain in the system until the reported firearm has been found. Existing law requires the Department of Justice to implement an electronic system to receive comprehensive tracing information from each local law enforcement agency and to forward the information to the National Tracing Center.

This bill would require every person, with exceptions, to report the theft or loss of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred ~~within 48 hours~~ *7 days* of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, and requires every person who has reported a firearm lost or stolen to notify the local law enforcement agency within 48 hours if the firearm is subsequently recovered. The bill would make a violation of these provisions an infraction punishable by a fine not to exceed \$100 for a first offense, an infraction punishable by a fine not to exceed \$1,000 for a 2nd offense, and a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not to exceed \$1,000, or both that fine and imprisonment, for a 3rd or subsequent offense. The bill would make it a misdemeanor for any person to make a report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. The bill would not preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to reporting the theft or loss of a firearm.

By creating new crimes, this bill would impose a state-mandated local program.

The bill would require every sheriff or police chief to submit a description of each firearm that has been reported lost or stolen directly to the Department of Justice ~~automated property system for firearms system.~~

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

The bill would also require that persons licensed to sell firearms post a warning within the licensed premises in block letters stating the requirement that a lost or stolen firearm be reported to a local law enforcement agency, as specified, *and that falsely reporting a firearm lost or stolen will result in the loss of the person's right to possess a firearm or ammunition for 10 years, as specified.*

(2)

(3) Existing law prohibits a person from making an application to purchase more than one handgun within any 30-day period. Existing law makes an exception for the replacement of a handgun when the person's handgun was lost or stolen and the person reported the firearm lost or stolen prior to the completion of the application to purchase.

This bill would instead make the exception for the replacement of a lost or stolen handgun applicable when the person has reported the handgun lost or stolen pursuant to the provisions of this bill.

(4) *Existing law, subject to exceptions, provides that any person who has been convicted of certain misdemeanors may not, within 10 years of the conviction, own, purchase, receive, possess, or have under his or her custody or control, any firearm. Existing law also prohibits a person who is prohibited from possessing a firearm from possessing ammunition. Under existing law, a violation of this prohibition is punishable as a crime.*

This bill would apply the above 10-year prohibition on the possession of a firearm to any person who makes a report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. By creating a new crime, this bill would impose a state-mandated local program.

(3)

(5) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 800 of the Penal Code is amended to*
2 *read:*

3 800. (a) Except as provided in Section 799, prosecution for
4 an offense punishable by imprisonment in the state prison for eight
5 years or more or by imprisonment pursuant to subdivision (h) of
6 Section 1170 for eight years or more shall be commenced within
7 six years after commission of the offense.

8 (b) *Prosecution for a violation of any of the following offenses*
9 *shall be commenced within six years after the commission of the*
10 *offense:*

11 (1) *A violation of Section 8101 of the Welfare and Institutions*
12 *Code.*

13 (2) *Conduct punished pursuant to subdivision (b) or (c) of*
14 *Section 27590.*

15 **SECTION 1.**

16 *SEC. 2. Section 16520 of the Penal Code is amended to read:*

17 16520. (a) As used in this part, “firearm” means any device,
18 designed to be used as a weapon, from which is expelled through
19 a barrel, a projectile by the force of any explosion or other form
20 of combustion.

21 (b) As used in the following provisions, “firearm” includes the
22 frame or receiver of the weapon:

23 (1) Section 16550.

24 (2) Section 16730.

25 (3) Section 16960.

26 (4) Section 16990.

27 (5) Section 17070.

28 (6) Section 17310.

29 (7) Sections 25250 to 25275, inclusive.

30 (8) Sections 26500 to 26588, inclusive.

31 (9) Sections 26600 to 27140, inclusive.

32 (10) Sections 27400 to 28000, inclusive.

33 (11) Section 28100.

34 (12) Sections 28400 to 28415, inclusive.

35 (13) Sections 29010 to 29150, inclusive.

- 1 (14) Sections 29610 to 29750, inclusive.
- 2 (15) Sections 29800 to 29905, inclusive.
- 3 (16) Sections 30150 to 30165, inclusive.
- 4 (17) Section 31615.
- 5 (18) Sections 31705 to 31830, inclusive.
- 6 (19) Sections 34355 to 34370, inclusive.
- 7 (20) Sections 8100, 8101, and 8103 of the Welfare and
- 8 Institutions Code.
- 9 (c) As used in the following provisions, “firearm” also includes
- 10 any rocket, rocket propelled projectile launcher, or similar device
- 11 containing any explosive or incendiary material, whether or not
- 12 the device is designed for emergency or distress signaling purposes:
- 13 (1) Section 16750.
- 14 (2) Subdivision (b) of Section 16840.
- 15 (3) Section 25400.
- 16 (4) Sections 25850 to 26025, inclusive.
- 17 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 18 (6) Sections 26035 to 26055, inclusive.
- 19 (d) As used in the following provisions, “firearm” does not
- 20 include an unloaded antique firearm:
- 21 (1) Subdivisions (a) and (c) of Section 16730.
- 22 (2) Section 16550.
- 23 (3) Section 16960.
- 24 (4) Section 17310.
- 25 (5) Division 4.5 (commencing with Section 25250) of Title 4.
- 26 (6) Chapter 6 (commencing with Section 26350) of Division 5
- 27 of Title 4.
- 28 (7) Chapter 7 (commencing with Section 26400) of Division 5
- 29 of Title 4.
- 30 (8) Sections 26500 to 26588, inclusive.
- 31 (9) Sections 26700 to 26915, inclusive.
- 32 (10) Section 27510.
- 33 (11) Section 27530.
- 34 (12) Section 27540.
- 35 (13) Section 27545.
- 36 (14) Sections 27555 to 27570, inclusive.
- 37 (15) Sections 29010 to 29150, inclusive.
- 38 (e) As used in Sections 34005 and 34010, “firearm” does not
- 39 include a destructive device.

1 (f) As used in Sections 17280 and 24680, “firearm” has the
2 same meaning as in Section 922 of Title 18 of the United States
3 Code.

4 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
5 includes the unfinished frame or receiver of a weapon that can be
6 readily converted to the functional condition of a finished frame
7 or receiver.

8 ~~SEC. 2.~~

9 *SEC. 3.* Division 4.5 (commencing with Section 25250) is
10 added to Title 4 of Part 6 of the Penal Code, to read:

11
12 DIVISION 4.5. LOST OR STOLEN FIREARMS

13
14 25250. (a) Commencing January 1, 2014, every person shall
15 report the theft or loss of a firearm he or she owns or possesses to
16 a local law enforcement agency in the jurisdiction in which the
17 theft or loss occurred within ~~48 hours~~ *seven days* of the time he or
18 she knew or reasonably should have known that the firearm had
19 been stolen or lost.

20 (b) Every person who has reported a firearm lost or stolen under
21 subdivision (a) shall notify the local law enforcement agency in
22 the jurisdiction in which the theft or loss occurred within 48 hours
23 if the firearm is subsequently recovered by the person.

24 25255. Section 25250 shall not apply to the following:

25 (a) Any law enforcement agency or peace officer acting within
26 the course and scope of his or her employment or official duties
27 if he or she reports the loss or theft to his or her employing agency.

28 (b) Any United States marshal or member of the Armed Forces
29 of the United States or the National Guard, while engaged in his
30 or her official duties.

31 (c) Any person who is licensed, pursuant to Chapter 44
32 (commencing with Section 921) of Title 18 of the United States
33 Code and the regulations issued pursuant thereto, and who reports
34 the theft or loss in accordance with Section 923(g)(6) of Title 18
35 of the United States Code, or the successor provision thereto, and
36 applicable regulations issued thereto.

37 (d) Any person whose firearm was lost or stolen prior to January
38 1, 2014.

39 25260. Pursuant to Section 11108, every sheriff or police chief
40 shall submit a description of each firearm which has been reported

1 lost or stolen directly into the Department of Justice automated
2 ~~property system for firearms~~ *firearms system*.

3 25265. (a) Every person who violates Section 25250 is, for a
4 first violation, guilty of an infraction punishable by a fine not to
5 exceed one hundred dollars (\$100).

6 (b) Every person who violates Section 25250 is, for a second
7 violation, guilty of an infraction, punishable by a fine not exceeding
8 one thousand dollars (\$1,000).

9 (c) Every person who violates Section 25250 is, for a third or
10 subsequent violation, guilty of a misdemeanor, punishable by
11 imprisonment in a county jail not exceeding six months, or by a
12 fine not exceeding one thousand dollars (\$1,000), or by both that
13 fine and imprisonment.

14 25270. Every person reporting a lost or stolen firearm pursuant
15 to Section 25250 shall report the make, model, and serial number
16 of the firearm, if known by the person.

17 25275. Commencing January 1, 2014, no person shall report
18 to a local law enforcement agency that a firearm has been lost or
19 stolen, knowing the report to be false. A violation of this section
20 is a misdemeanor.

21 25280. This division does not preclude or preempt a local
22 ordinance that imposes additional penalties or requirements in
23 regard to reporting the theft or loss of a firearm.

24 ~~SEC. 3.~~

25 *SEC. 4.* Section 26835 of the Penal Code is amended to read:

26 26835. A licensee shall post conspicuously within the licensed
27 premises the following warnings in block letters not less than one
28 inch in height:

29

30 (a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
31 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
32 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
33 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
34 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
35 MISDEMEANOR OR A FELONY UNLESS YOU STORED
36 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
37 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
38 FROM TEMPORARILY FUNCTIONING."

39 (b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
40 FIREARM CAPABLE OF BEING CONCEALED UPON THE

1 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
2 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
3 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
4 OFF-PREMISES, YOU MAY BE GUILTY OF A
5 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
6 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
7 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
8 FUNCTIONING.”

9 (c) “IF YOU KEEP ANY FIREARM WITHIN ANY
10 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
11 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
12 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
13 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
14 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
15 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
16 STORED THE FIREARM IN A LOCKED CONTAINER, OR
17 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

18 (d) “DISCHARGING FIREARMS IN POORLY VENTILATED
19 AREAS, CLEANING FIREARMS, OR HANDLING
20 AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A
21 SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS,
22 REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL
23 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES.
24 WASH HANDS THOROUGHLY AFTER EXPOSURE.”

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

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

1 BEING CONCEALED UPON THE PERSON WITHIN ANY
2 30-DAY PERIOD.”

3 (g) “IF A FIREARM YOU OWN OR POSSESS IS LOST OR
4 STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A
5 LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS
6 OR THEFT OCCURRED WITHIN ~~48 HOURS~~ SEVEN DAYS
7 OF THE TIME YOU KNEW OR REASONABLY SHOULD
8 HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR
9 STOLEN.”

10 (h) “IF YOU FALSELY REPORT THAT A FIREARM YOU
11 OWN OR POSSESS IS LOST OR STOLEN, YOU FACE CRIMINAL
12 PROSECUTION AND LOSS OF YOUR RIGHT TO POSSESS A
13 FIREARM OR AMMUNITION FOR 10 YEARS.”

14

15 ~~SEC. 4.~~

16 SEC. 5. Section 27535 of the Penal Code is amended to read:

17 27535. (a) No person shall make an application to purchase
18 more than one handgun within any 30-day period.

19 (b) Subdivision (a) shall not apply to any of the following:

20 (1) Any law enforcement agency.

21 (2) Any agency duly authorized to perform law enforcement
22 duties.

23 (3) Any state or local correctional facility.

24 (4) Any private security company licensed to do business in
25 California.

26 (5) Any person who is properly identified as a full-time paid
27 peace officer, as defined in Chapter 4.5 (commencing with Section
28 830) of Title 3 of Part 2, and who is authorized to, and does carry
29 a firearm during the course and scope of employment as a peace
30 officer.

31 (6) Any motion picture, television, or video production company
32 or entertainment or theatrical company whose production by its
33 nature involves the use of a firearm.

34 (7) Any person who may, pursuant to Article 2 (commencing
35 with Section 27600), Article 3 (commencing with Section 27650),
36 or Article 4 (commencing with Section 27700), claim an exemption
37 from the waiting period set forth in Section 27540.

38 (8) Any transaction conducted through a licensed firearms dealer
39 pursuant to Chapter 5 (commencing with Section 28050).

1 (9) Any person who is licensed as a collector pursuant to Chapter
 2 44 (commencing with Section 921) of Title 18 of the United States
 3 Code and the regulations issued pursuant thereto, and has a current
 4 certificate of eligibility issued by the Department of Justice
 5 pursuant to Article 1 (commencing with Section 26700) of Chapter
 6 2.

7 (10) The exchange of a handgun where the dealer purchased
 8 that firearm from the person seeking the exchange within the
 9 30-day period immediately preceding the date of exchange or
 10 replacement.

11 (11) The replacement of a handgun when the person’s handgun
 12 was lost or stolen, and the person reported that firearm lost or
 13 stolen pursuant to Section 25250 prior to the completion of the
 14 application to purchase the replacement handgun.

15 (12) The return of any handgun to its owner.

16 (13) A community college that is certified by the Commission
 17 on Peace Officer Standards and Training to present the law
 18 enforcement academy basic course or other commission-certified
 19 law enforcement training.

20 *SEC. 6. Section 29805 of the Penal Code is amended to read:*

21 29805. Except as provided in Section 29855 or subdivision (a)
 22 of Section 29800, any person who has been convicted of a
 23 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
 24 subdivision (d) of Section 148, Section 171b, paragraph (1) of
 25 subdivision (a) of Section 171c, *Section* 171d, 186.28, 240, 241,
 26 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417,
 27 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former
 28 Section 12100, as that section read at any time from when it was
 29 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
 30 when it was repealed by Section 18 of Chapter 23 of the Statutes
 31 of 1994, Section 17500, 17510, 25275, 25300, 25800, 30315, or
 32 32625, subdivision (b) or (d) of Section 26100, or Section 27510,
 33 or Section 8100, 8101, or 8103 of the Welfare and Institutions
 34 Code, any firearm-related offense pursuant to Sections 871.5 and
 35 1001.5 of the Welfare and Institutions Code, or of the conduct
 36 punished in subdivision (c) of Section 27590, and who, within 10
 37 years of the conviction, owns, purchases, receives, or has in
 38 possession or under custody or control, any firearm is guilty of a
 39 public offense, which shall be punishable by imprisonment in a
 40 county jail not exceeding one year or in the state prison, by a fine

1 not exceeding one thousand dollars (\$1,000), or by both that
2 imprisonment and fine. The court, on forms prescribed by the
3 Department of Justice, shall notify the department of persons
4 subject to this section. However, the prohibition in this section
5 may be reduced, eliminated, or conditioned as provided in Section
6 29855 or 29860.

7 ~~SEC. 5.~~

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

17 However, if the Commission on State Mandates determines that
18 this act contains other costs mandated by the state, reimbursement
19 to local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.