

AMENDED IN SENATE JANUARY 21, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 11, 2013

**SENATE BILL**

**No. 808**

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**Introduced by Senator De León**

February 22, 2013

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An act to amend Sections 11106, 16520, 23910, and 28230 of, and to add Chapter 3 (commencing with Section 29180) to Division 7 of Title 4 of Part 6 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 808, as amended, De León. Firearms: identifying information.

Existing law authorizes the Department of Justice to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification or distinguishing number or mark assigned by the department has been destroyed or obliterated.

This bill would, *commencing January 1, 2016*, require a person who ~~makes~~ *manufactures* or assembles a firearm to first apply to the department for a unique serial number or other identifying mark, as provided. *The bill would, by July 1, 2016, require any person who, as of January 1, 2016, owns a firearm that does not bear a serial number to likewise apply to the department for a unique serial number or other mark of identification.* The bill would make a violation of these provisions a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require the department to issue a serial number or other identifying mark to an applicant meeting specified criteria and would allow the department to charge a fee to recover its costs.

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 11106 of the Penal Code, as amended  
2 by Section 1.3 of Chapter 739 of the Statutes of 2013, is amended  
3 to read:

4 11106. (a) In order to assist in the investigation of crime, the  
5 prosecution of civil actions by city attorneys pursuant to paragraph  
6 (3) of subdivision (b), the arrest and prosecution of criminals, and  
7 the recovery of lost, stolen, or found property, the Attorney General  
8 shall keep and properly file a complete record of all copies of  
9 fingerprints, copies of licenses to carry firearms issued pursuant  
10 to Section 26150, 26155, 26170, or 26215, information reported  
11 to the Department of Justice pursuant to Section 26225, 29180, or  
12 29830, dealers’ records of sales of firearms, reports provided  
13 pursuant to Article 1 (commencing with Section 27500) of Chapter  
14 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision  
15 listed in subdivision (a) of Section 16585, forms provided pursuant  
16 to Section 12084, as that section read prior to being repealed,  
17 reports provided pursuant to Article 1 (commencing with Section  
18 26700) and Article 2 (commencing with Section 26800) of Chapter  
19 2 of Division 6 of Title 4 of Part 6, that are not dealers’ records of  
20 sales of firearms, information provided pursuant to Section 28255,  
21 and reports of stolen, lost, found, pledged, or pawned property in  
22 any city or county of this state, and shall, upon proper application  
23 therefor, furnish this information to the officers referred to in  
24 Section 11105.

25 (b) (1) The Attorney General shall permanently keep and  
26 properly file and maintain all information reported to the

1 Department of Justice pursuant to the following provisions as to  
2 firearms and maintain a registry thereof:

3 (A) Article 1 (commencing with Section 26700) and Article 2  
4 (commencing with Section 26800) of Chapter 2 of Division 6 of  
5 Title 4 of Part 6.

6 (B) Article 1 (commencing with Section 27500) of Chapter 4  
7 of Division 6 of Title 4 of Part 6.

8 (C) Chapter 5 (commencing with Section 28050) of Division 6  
9 of Title 4 of Part 6.

10 (D) Any provision listed in subdivision (a) of Section 16585.

11 (E) Former Section 12084.

12 (F) Section 28255.

13 (G) Section 29180.

14 (H) Any other law.

15 (2) The registry shall consist of all of the following:

16 (A) The name, address, identification of, place of birth (state  
17 or country), complete telephone number, occupation, sex,  
18 description, and all legal names and aliases ever used by the owner  
19 or person being loaned the particular firearm as listed on the  
20 information provided to the department on the Dealers' Record of  
21 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined  
22 in former Section 12084, or reports made to the department  
23 pursuant to any provision listed in subdivision (a) of Section 16585,  
24 Section 28255, Section 29180, or any other law.

25 (B) The name and address of, and other information about, any  
26 person (whether a dealer or a private party) from whom the owner  
27 acquired or the person being loaned the particular firearm and  
28 when the firearm was acquired or loaned as listed on the  
29 information provided to the department on the Dealers' Record of  
30 Sale, the LEFT, or reports made to the department pursuant to any  
31 provision listed in subdivision (a) of Section 16585 or any other  
32 law.

33 (C) Any waiting period exemption applicable to the transaction  
34 which resulted in the owner of or the person being loaned the  
35 particular firearm acquiring or being loaned that firearm.

36 (D) The manufacturer's name if stamped on the firearm, model  
37 name or number if stamped on the firearm, and, if applicable, the  
38 serial number, other number (if more than one serial number is  
39 stamped on the firearm), caliber, type of firearm, if the firearm is  
40 new or used, barrel length, and color of the firearm, or, if the

1 firearm is not a handgun and does not have a serial number or any  
2 identification number or mark assigned to it, that shall be noted.

3 (3) Information in the registry referred to in this subdivision  
4 shall, upon proper application therefor, be furnished to the officers  
5 referred to in Section 11105, to a city attorney prosecuting a civil  
6 action, solely for use in prosecuting that civil action and not for  
7 any other purpose, or to the person listed in the registry as the  
8 owner or person who is listed as being loaned the particular firearm.

9 (4) If any person is listed in the registry as the owner of a firearm  
10 through a Dealers' Record of Sale prior to 1979, and the person  
11 listed in the registry requests by letter that the Attorney General  
12 store and keep the record electronically, as well as in the record's  
13 existing photographic, photostatic, or nonerasable optically stored  
14 form, the Attorney General shall do so within three working days  
15 of receipt of the request. The Attorney General shall, in writing,  
16 and as soon as practicable, notify the person requesting electronic  
17 storage of the record that the request has been honored as required  
18 by this paragraph.

19 (c) (1) Any officer referred to in paragraphs (1) to (6), inclusive,  
20 of subdivision (b) of Section 11105 may disseminate the name of  
21 the subject of the record, the number of the firearms listed in the  
22 record, and the description of any firearm, including the make,  
23 model, and caliber, from the record relating to any firearm's sale,  
24 transfer, registration, or license record, or any information reported  
25 to the Department of Justice pursuant to Section 26225, Article 1  
26 (commencing with Section 26700) and Article 2 (commencing  
27 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part  
28 6, Article 1 (commencing with Section 27500) of Chapter 4 of  
29 Division 6 of Title 4 of Part 6, Chapter 5 (commencing with  
30 Section 28050) of Division 6 of Title 4 of Part 6, Article 2  
31 (commencing with Section 28150) of Chapter 6 of Division 6 of  
32 Title 4 of Part 6, Article 5 (commencing with Section 30900) of  
33 Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2  
34 (commencing with Section 33850) of Division 11 of Title 4 of Part  
35 6, or any provision listed in subdivision (a) of Section 16585, if  
36 the following conditions are met:

37 (A) The subject of the record has been arraigned for a crime in  
38 which the victim is a person described in subdivisions (a) to (f),  
39 inclusive, of Section 6211 of the Family Code and is being  
40 prosecuted or is serving a sentence for the crime, or the subject of

1 the record is the subject of an emergency protective order, a  
2 temporary restraining order, or an order after hearing, which is in  
3 effect and has been issued by a family court under the Domestic  
4 Violence Protection Act set forth in Division 10 (commencing  
5 with Section 6200) of the Family Code.

6 (B) The information is disseminated only to the victim of the  
7 crime or to the person who has obtained the emergency protective  
8 order, the temporary restraining order, or the order after hearing  
9 issued by the family court.

10 (C) Whenever a law enforcement officer disseminates the  
11 information authorized by this subdivision, that officer or another  
12 officer assigned to the case shall immediately provide the victim  
13 of the crime with a “Victims of Domestic Violence” card, as  
14 specified in subparagraph (H) of paragraph (9) of subdivision (c)  
15 of Section 13701.

16 (2) The victim or person to whom information is disseminated  
17 pursuant to this subdivision may disclose it as he or she deems  
18 necessary to protect himself or herself or another person from  
19 bodily harm by the person who is the subject of the record.

20 SEC. 2. Section 16520 of the Penal Code, as amended by  
21 Section 2 of Chapter 737 of the Statutes of 2013, is amended to  
22 read:

23 16520. (a) As used in this part, “firearm” means a device,  
24 designed to be used as a weapon, from which is expelled through  
25 a barrel, a projectile by the force of an explosion or other form of  
26 combustion.

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

- 29 (1) Section 16550.
- 30 (2) Section 16730.
- 31 (3) Section 16960.
- 32 (4) Section 16990.
- 33 (5) Section 17070.
- 34 (6) Section 17310.
- 35 (7) Sections 26500 to 26588, inclusive.
- 36 (8) Sections 26600 to 27140, inclusive.
- 37 (9) Sections 27400 to 28000, inclusive.
- 38 (10) Section 28100.
- 39 (11) Sections 28400 to 28415, inclusive.
- 40 (12) Sections 29010 to 29150, inclusive.

- 1 (13) Section 29180.
- 2 (14) Sections 29610 to 29750, inclusive.
- 3 (15) Sections 29800 to 29905, inclusive.
- 4 (16) Sections 30150 to 30165, inclusive.
- 5 (17) Section 31615.
- 6 (18) Sections 31705 to 31830, inclusive.
- 7 (19) Sections 34355 to 34370, inclusive.
- 8 (20) Sections 8100, 8101, and 8103 of the Welfare and
- 9 Institutions Code.
- 10 (c) As used in the following provisions, “firearm” also includes
- 11 a rocket, rocket propelled projectile launcher, or similar device
- 12 containing an explosive or incendiary material, whether or not the
- 13 device is designed for emergency or distress signaling purposes:
- 14 (1) Section 16750.
- 15 (2) Subdivision (b) of Section 16840.
- 16 (3) Section 25400.
- 17 (4) Sections 25850 to 26025, inclusive.
- 18 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 19 (6) Sections 26035 to 26055, inclusive.
- 20 (d) As used in the following provisions, “firearm” does not
- 21 include an unloaded antique firearm:
- 22 (1) Subdivisions (a) and (c) of Section 16730.
- 23 (2) Section 16550.
- 24 (3) Section 16960.
- 25 (4) Section 17310.
- 26 (5) Chapter 6 (commencing with Section 26350) of Division 5
- 27 of Title 4.
- 28 (6) Chapter 7 (commencing with Section 26400) of Division 5
- 29 of Title 4.
- 30 (7) Sections 26500 to 26588, inclusive.
- 31 (8) Sections 26700 to 26915, inclusive.
- 32 (9) Section 27510.
- 33 (10) Section 27530.
- 34 (11) Section 27540.
- 35 (12) Section 27545.
- 36 (13) Sections 27555 to 27570, inclusive.
- 37 (14) Sections 29010 to 29150, inclusive.
- 38 (15) Section 25135.
- 39 (16) *Section 29180.*

1 (e) As used in Sections 34005 and 34010, “firearm” does not  
2 include a destructive device.

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

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

10 SEC. 3. Section 23910 of the Penal Code is amended to read:

11 23910. (a) The Department of Justice upon request may assign  
12 a distinguishing number or mark of identification to any firearm  
13 whenever the firearm lacks a manufacturer’s number or other mark  
14 of identification, or whenever the manufacturer’s number or other  
15 mark of identification or a distinguishing number or mark assigned  
16 by the department has been destroyed or obliterated.

17 (b) The Department of Justice, upon request, shall assign a  
18 distinguishing number or mark of identification to any firearm in  
19 accordance with Section ~~29181~~ 29182.

20 SEC. 4. Section 28230 of the Penal Code is amended to read:

21 28230. (a) The Department of Justice may charge a fee  
22 sufficient to reimburse it for each of the following but not to exceed  
23 fourteen dollars (\$14), except that the fee may be increased at a  
24 rate not to exceed any increase in the California Consumer Price  
25 Index as compiled and reported by the Department of Industrial  
26 Relations:

27 (1) For the actual costs associated with the preparation, sale,  
28 processing, and filing of forms or reports required or utilized  
29 pursuant to any provision listed in subdivision (a) of Section 16585.

30 (2) For the actual processing costs associated with the  
31 submission of a Dealers’ Record of Sale to the department.

32 (3) For the actual costs associated with the preparation, sale,  
33 processing, and filing of reports utilized pursuant to Section 26905,  
34 27565, 27966, or 28000, or paragraph (1) of subdivision (a) of  
35 Section 27560.

36 (4) For the actual costs associated with the electronic or  
37 telephonic transfer of information pursuant to Section 28215.

38 (5) For the actual costs associated with assigning a  
39 distinguishing number or mark to firearms pursuant to Sections  
40 29180 and ~~29181~~ 29182.

1 (b) If the department charges a fee pursuant to paragraph (2) of  
 2 subdivision (a), it shall be charged in the same amount to all  
 3 categories of transaction that are within that paragraph.

4 (c) Any costs incurred by the Department of Justice to  
 5 implement this section shall be reimbursed from fees collected  
 6 and charged pursuant to this section. No fees shall be charged to  
 7 the dealer pursuant to Section 28225 for implementing this section.

8 SEC. 5. Chapter 3 (commencing with Section 29180) is added  
 9 to Division 7 of Title 4 of Part 6 of the Penal Code, to read:

10  
 11 CHAPTER 3. ASSEMBLY OF FIREARMS  
 12

13 29180. (a) ~~(1) Prior to making~~ *For purposes of this chapter,*  
 14 *“manufacturing” or “assembling” a firearm means to fabricate*  
 15 *or construct a firearm, or to fit together the component parts of a*  
 16 *firearm to construct a firearm.*

17 (b) *Commencing January 1, 2016, prior to manufacturing or*  
 18 *assembling a firearm, a person—making manufacturing or*  
 19 *assembling the firearm shall apply do all of the following:*

20 (1) *Apply to the Department of Justice for a unique serial number*  
 21 *or other mark of identification pursuant to Section ~~29181~~ 29182.*

22 (2) *Within one day of making manufacturing or assembling a*  
 23 *firearm in accordance with paragraph (1), the unique serial number*  
 24 *or other mark of identification provided by the department shall*  
 25 *be engraved or permanently affixed to the firearm in accordance*  
 26 *with regulations prescribed by the department pursuant to Section*  
 27 *~~29181~~ 29182 and in a manner that meets or exceeds the*  
 28 *requirements imposed on licensed importers and licensed*  
 29 *manufacturers of firearms pursuant to subsection (i) of Section*  
 30 *923 of Title 18 of the United States Code and regulations issued*  
 31 *pursuant thereto.*

32 (3) *After the serial number provided by the department is*  
 33 *engraved or otherwise permanently affixed to the firearm, the*  
 34 *person shall notify the department of that fact in a manner and*  
 35 *within a time period specified by the department, and with*  
 36 *sufficient information to identify the owner of the firearm and, the*  
 37 *unique serial number or mark of identification provided by the*  
 38 *department, and the firearm in a manner prescribed by the*  
 39 *department.*

1 ~~(b) Subdivision (a) does not apply to an importer or~~  
2 ~~manufacturer of firearms who is licensed to engage in that business~~  
3 ~~pursuant to Chapter 44 (commencing with Section 921) of Title~~  
4 ~~18 of the United States Code and the regulations issued pursuant~~  
5 ~~thereto.~~

6 *(c) By July 1, 2016, any person who, as of January 1, 2016,*  
7 *owns a firearm that does not bear a serial number assigned to it*  
8 *pursuant to either Section 23910 or pursuant to Chapter 44*  
9 *(commencing with Section 921) of Title 18 of the United States*  
10 *Code and the regulations issued pursuant thereto, shall do all of*  
11 *the following:*

12 *(1) Apply to the Department of Justice for a unique serial*  
13 *number or other mark of identification pursuant to Section 29182.*

14 *(2) Within one day of receiving a unique serial number or other*  
15 *mark of identification from the department, the unique serial*  
16 *number or other mark of identification provided by the department*  
17 *shall be engraved or permanently affixed to the firearm in*  
18 *accordance with regulations prescribed by the department pursuant*  
19 *to Section 29182 and in a manner that meets or exceeds the*  
20 *requirements imposed on licensed importers and licensed*  
21 *manufacturers of firearms pursuant to subsection (i) of Section*  
22 *923 of Title 18 of the United States Code and regulations issued*  
23 *pursuant thereto.*

24 *(3) After the serial number provided by the department is*  
25 *engraved or otherwise permanently affixed to the firearm, the*  
26 *person shall notify the department of that fact in a manner and*  
27 *within a time period specified by the department, and with sufficient*  
28 *information to identify the owner of the firearm, the unique serial*  
29 *number or mark of identification provided by the department, and*  
30 *the firearm in a manner prescribed by the department.*

31 ~~(e) (1) If~~

32 *(d) If the firearm is a handgun, a violation of subdivision (a)*  
33 *this section is punishable by imprisonment in a county jail not to*  
34 *exceed one year, or by a fine not to exceed one thousand dollars*  
35 *(\$1,000), or by both that fine and imprisonment. For all other*  
36 *firearms, a violation if subdivision (a) of this section is punishable*  
37 *by imprisonment in a county jail not to exceed six months, or by*  
38 *a fine not to exceed one thousand dollars (\$1,000), or by both that*  
39 *fine and imprisonment. Each firearm found to be in violation of*  
40 *this section constitutes a distinct and separate offense. This section*

1 *does not preclude prosecution under any other law providing for*  
 2 *a greater penalty.*

3 ~~(2) This section does not preclude prosecution under any other~~  
 4 ~~law providing for a greater penalty.~~

5 ~~(3) The provisions of this section are cumulative and do not~~  
 6 ~~restrict the application of any other law. However, an act or~~  
 7 ~~omission punishable in different ways by different laws shall not~~  
 8 ~~be punished under more than one provision of law.~~

9 ~~(4) Each firearm shall constitute a distinct and separate offense~~  
 10 ~~pursuant to subdivision (a):~~

11 *29181. Section 29180 does not apply to or affect any of the*  
 12 *following:*

13 *(a) A firearm that has a serial number assigned to it pursuant*  
 14 *to either Section 23910 or pursuant to Chapter 44 (commencing*  
 15 *with Section 921) of Title 18 of the United States Code and the*  
 16 *regulations issued pursuant thereto.*

17 *(b) A firearm made or assembled prior to December 16, 1968,*  
 18 *that is not a handgun.*

19 *(c) A firearm that is a curio or relic, as defined in Section 478.11*  
 20 *of Title 27 of the Code of Federal Regulations, or its successor.*

21 ~~29181.~~

22 *29182. (a) The Department of Justice shall accept applications*  
 23 *from, and shall grant applications in the form of serial numbers*  
 24 *pursuant to Section 23910 to, persons who wish to—make*  
 25 *manufacture or assemble firearms pursuant to subdivision—(a) (b)*  
 26 *of Section 29180 or own a firearm described in subdivision (c) of*  
 27 *Section 29180.*

28 *(b) An application made pursuant to subdivision (a) shall only*  
 29 *be granted by the department if the applicant presents proof that*  
 30 *the applicant is not prohibited by state or federal law from*  
 31 *possessing or owning a firearm or ammunition, that he or she is*  
 32 *18 years of age or older, and that the making of the firearm at the*  
 33 *place where the firearm is made does not violate any local*  
 34 *regulatory requirements. does all of the following:*

35 *(1) Completes a personal firearms eligibility check pursuant to*  
 36 *Section 30105, demonstrating that the applicant is not prohibited*  
 37 *by state or federal law from possessing, receiving, owning, or*  
 38 *purchasing a firearm.*

39 *(2) Presents proof of age and identity as specified in Section*  
 40 *16400. The applicant shall be 18 years of age or older to obtain*

1 *a unique serial number or mark of identification for a firearm that*  
2 *is not a handgun, and shall be 21 years of age or older to obtain*  
3 *a unique serial number or mark of identification for a handgun.*

4 (3) *Provide a description of the firearm that he or she intends*  
5 *to manufacture or assemble, in a manner proscribed by the*  
6 *department.*

7 (4) *Have a valid firearm safety certificate or handgun safety*  
8 *certificate.*

9 (c) *The department shall inform applicants who are denied an*  
10 *application of the reasons for the denial in writing.*

11 (d) *All applications shall be granted or denied within 15 calendar*  
12 *days of the receipt of the application by the department.*

13 ~~(e) The department may, as a condition of granting the~~  
14 ~~application, require the applicant to allow an employee of the~~  
15 ~~department designated by the Attorney General, upon presentation~~  
16 ~~of the proper identification, to inspect the place where the firearm~~  
17 ~~is to be made or assembled during normal business hours to ensure~~  
18 ~~compliance with this chapter.~~

19 ~~(f) (1) The~~

20 (e) *The department shall recover the full costs of administering*  
21 *the program by collecting fees from persons making applications*  
22 *pursuant to this section. The department shall include a discreet*  
23 *fee as part of the application process to cover the cost of placing*  
24 *information provided pursuant to paragraph (3) of subdivision*  
25 *(b), or paragraph (3) of subdivision (c), of Section 29180, in the*  
26 *centralized registry specified in Section 11106. The fee for*  
27 *reporting information shall not exceed the costs associated with*  
28 *the submission of information to the department pursuant to Section*  
29 *28000.*

30 ~~(2) The department shall include a discreet fee as part of the~~  
31 ~~application process to cover the cost of placing information~~  
32 ~~provided pursuant to paragraph (3) of subdivision (a) of Section~~  
33 ~~29180 in the centralized registry specified in Section 11106. The~~  
34 ~~fee for reporting information shall not exceed the costs associated~~  
35 ~~with the submission of information to the department pursuant to~~  
36 ~~Section 28000.~~

37 ~~(g)~~

38 (f) *The department shall adopt regulations to administer this*  
39 *chapter.*

1     ~~29812.~~  
2     29183. The Department of Justice shall maintain and make  
3 available upon request information concerning all of the following:  
4     (a) The number of applications made and granted pursuant to  
5 Section ~~29181~~ 29182.  
6     (b) The amount of fees collected pursuant to Section ~~29181~~  
7 29182.  
8     (c) The number of *arrests for* violations of Section 29180.  
9     SEC. 6. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.