

ASSEMBLY BILL

No. 1415

**Introduced by Assembly Member Steinorth
(Principal coauthor: Assembly Member Linder)**

February 27, 2015

An act to amend Section 29800 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1415, as introduced, Steinorth. Firearms: felons in possession of firearms.

Existing law makes it a felony for any person who has been convicted of a felony to own, purchase, receive, or have in his or her possession or under custody or control any firearm. Existing law, the Safe Neighborhoods and Schools Act, enacted by Proposition 47, as approved by the voters at the November 4, 2014, statewide general election, reduced certain felonies to misdemeanors. Proposition 47 allows a person who is currently serving a sentence for a conviction of a felony who would have been guilty of a misdemeanor under the proposition to petition for a recall of sentence and permits the court to recall the felony sentence and resentence the petitioner to a misdemeanor, as specified. Proposition 47 also allows a court to designate a felony conviction of a person who has completed his or her sentence as a misdemeanor upon application.

This bill would make it a felony for a person who has had his or her felony conviction recalled and has been resentenced to a misdemeanor, or who has had a felony designated as a misdemeanor, pursuant to the above provisions, to own, purchase, receive, or have in possession or under custody or control any firearm.

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

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 29800 of the Penal Code is amended to
2 read:

3 29800. (a) (1) ~~Any~~A person who has been convicted of a
4 felony under the laws of the United States, the State of California,
5 or any other state, government, or country, or of an offense
6 enumerated in subdivision (a), (b), or (d) of Section 23515, or who
7 is addicted to the use of any narcotic drug, and who owns,
8 purchases, receives, or has in possession or under custody or
9 control ~~any~~ a firearm is guilty of a felony.

10 (2) ~~Any~~A person who has two or more convictions for violating
11 paragraph (2) of subdivision (a) of Section 417 and who owns,
12 purchases, receives, or has in possession or under custody or
13 control ~~any~~ a firearm is guilty of a felony.

14 (b) Notwithstanding subdivision (a), ~~any~~ a person who has been
15 convicted of a felony or of an offense enumerated in Section 23515,
16 when that conviction results from certification by the juvenile court
17 for prosecution as an adult in an adult court under Section 707 of
18 the Welfare and Institutions Code, and who owns or has in
19 possession or under custody or control ~~any~~ a firearm is guilty of
20 a felony.

21 (c) *A person who was either previously convicted of a felony
22 and had his or her sentence recalled and was resentenced to a
23 misdemeanor pursuant to Section 1170.18, or who had his or her
24 felony conviction designated as a misdemeanor pursuant to Section
25 1170.18 after completing his or her sentence, and who owns,
26 purchases, receives, or has in possession or under custody or
27 control a firearm is guilty of a felony.*

28 (e)

1 (d) Subdivision (a) shall not apply to a person who has been
2 convicted of a felony under the laws of the United States unless
3 either of the following criteria is satisfied:

4 (1) Conviction of a like offense under California law can only
5 result in imposition of felony punishment.

6 (2) The defendant was sentenced to a federal correctional facility
7 for more than 30 days, or received a fine of more than one thousand
8 dollars (\$1,000), or received both punishments.

9 SEC. 2. 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.