

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1695

Introduced by Assembly Member Bonta
(Coauthors: Assembly Members Gipson, Levine, and Ting)

January 21, 2016

An act to amend Sections ~~16520 and 29805~~ of, and to add Section ~~29305 to~~, *148.5 and 29805* of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1695, as amended, Bonta. Firearms: false reports of stolen firearms.

~~(1) 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 make it a misdemeanor to report to a local law enforcement agency that a firearm has been lost or stolen, knowing that report to be false. The bill would also make it a misdemeanor for a person convicted of violating this provision to own a firearm within 10~~

~~years of the conviction. The bill would define “firearm” for these purposes to include the frame or receiver of the weapon, and to include a rocket, rocket propelled projectile launcher, or similar device containing an explosive or incendiary material. By creating new crimes, this bill would impose a state-mandated local program.~~

(1) Existing law makes it a misdemeanor to make a false report to a peace officer, or to a person who is employed by a law enforcement agency, as specified, that a felony or misdemeanor has been committed, knowing the report to be false.

This bill would make that prohibition applicable to a person who reports to certain individuals and peace officers that a firearm has been lost or stolen, knowing the report to be false. By changing the definition of an existing crime, this bill would impose a state-mandated local program. The bill would also make it a misdemeanor for a person convicted of violating this provision to own a firearm within 10 years of the conviction. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(2) This bill would incorporate additional changes to Section 29805 of the Penal Code, proposed by AB 1176, that would become operative only if AB 1176 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

~~(2)~~

(3) 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 16520 of the Penal Code is amended to~~
 2 ~~read:~~

3 ~~16520. (a) As used in this part, “firearm” means a device,~~
 4 ~~designed to be used as a weapon, from which is expelled through~~
 5 ~~a barrel, a projectile by the force of an explosion or other form of~~
 6 ~~combustion.~~

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

- 1 ~~(1) Section 16550.~~
- 2 ~~(2) Section 16730.~~
- 3 ~~(3) Section 16960.~~
- 4 ~~(4) Section 16990.~~
- 5 ~~(5) Section 17070.~~
- 6 ~~(6) Section 17310.~~
- 7 ~~(7) Sections 26500 to 26588, inclusive.~~
- 8 ~~(8) Sections 26600 to 27140, inclusive.~~
- 9 ~~(9) Sections 27400 to 28000, inclusive.~~
- 10 ~~(10) Section 28100.~~
- 11 ~~(11) Sections 28400 to 28415, inclusive.~~
- 12 ~~(12) Sections 29010 to 29150, inclusive.~~
- 13 ~~(13) Section 29305.~~
- 14 ~~(14) Sections 29610 to 29750, inclusive.~~
- 15 ~~(15) Sections 29800 to 29905, inclusive.~~
- 16 ~~(16) Sections 30150 to 30165, inclusive.~~
- 17 ~~(17) Section 31615.~~
- 18 ~~(18) Sections 31705 to 31830, inclusive.~~
- 19 ~~(19) Sections 34355 to 34370, inclusive.~~
- 20 ~~(20) Sections 8100, 8101, and 8103 of the Welfare and~~
- 21 ~~Institutions Code.~~
- 22 ~~(e) As used in the following provisions, “firearm” also includes~~
- 23 ~~a rocket, rocket propelled projectile launcher, or similar device~~
- 24 ~~containing an explosive or incendiary material, whether or not the~~
- 25 ~~device is designed for emergency or distress signaling purposes:~~
- 26 ~~(1) Section 16750.~~
- 27 ~~(2) Subdivision (b) of Section 16840.~~
- 28 ~~(3) Section 25400.~~
- 29 ~~(4) Sections 25850 to 26025, inclusive.~~
- 30 ~~(5) Subdivisions (a), (b), and (c) of Section 26030.~~
- 31 ~~(6) Sections 26035 to 26055, inclusive.~~
- 32 ~~(d) As used in the following provisions, “firearm” does not~~
- 33 ~~include an unloaded antique firearm:~~
- 34 ~~(1) Subdivisions (a) and (c) of Section 16730.~~
- 35 ~~(2) Section 16550.~~
- 36 ~~(3) Section 16960.~~
- 37 ~~(4) Section 17310.~~
- 38 ~~(5) Section 25135.~~
- 39 ~~(6) Chapter 6 (commencing with Section 26350) of Division 5~~
- 40 ~~of Title 4.~~

1 ~~(7) Chapter 7 (commencing with Section 26400) of Division 5~~
2 ~~of Title 4.~~

3 ~~(8) Sections 26500 to 26588, inclusive.~~

4 ~~(9) Sections 26700 to 26915, inclusive.~~

5 ~~(10) Section 27510.~~

6 ~~(11) Section 27530.~~

7 ~~(12) Section 27540.~~

8 ~~(13) Section 27545.~~

9 ~~(14) Sections 27555 to 27585, inclusive.~~

10 ~~(15) Sections 29010 to 29150, inclusive.~~

11 ~~(16) Section 29305.~~

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

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

17 ~~(g) As used in Sections 29010 to 29150, inclusive, “firearm”~~
18 ~~includes the unfinished frame or receiver of a weapon that can be~~
19 ~~readily converted to the functional condition of a finished frame~~
20 ~~or receiver.~~

21 ~~SEC. 2. Section 29305 is added to the Penal Code, to read:~~

22 ~~29305. It is unlawful to report to a local law enforcement~~
23 ~~agency that a firearm has been lost or stolen, knowing the report~~
24 ~~to be false. A violation of this section is a misdemeanor.~~

25 ~~SECTION 1. Section 148.5 of the Penal Code is amended to~~
26 ~~read:~~

27 ~~148.5. (a) Every person who reports to any peace officer listed~~
28 ~~in Section 830.1 or 830.2, or subdivision (a) of Section 830.33,~~
29 ~~the Attorney General, or a deputy attorney general, or a district~~
30 ~~attorney, or a deputy district attorney that a felony or misdemeanor~~
31 ~~has been committed, knowing the report to be false, is guilty of a~~
32 ~~misdemeanor.~~

33 ~~(b) Every person who reports to any other peace officer, as~~
34 ~~defined in Chapter 4.5 (commencing with Section 830) of Title 3~~
35 ~~of Part 2, that a felony or misdemeanor has been committed,~~
36 ~~knowing the report to be false, is guilty of a misdemeanor if (1)~~
37 ~~the false information is given while the peace officer is engaged~~
38 ~~in the performance of his or her duties as a peace officer and (2)~~
39 ~~the person providing the false information knows or should have~~
40 ~~known that the person receiving the information is a peace officer.~~

1 (c) Except as provided in subdivisions (a) and (b), every person
2 who reports to any employee who is assigned to accept reports
3 from citizens, either directly or by telephone, and who is employed
4 by a state or local agency which is designated in Section 830.1,
5 830.2, subdivision (e) of Section 830.3, Section 830.31, 830.32,
6 830.33, 830.34, 830.35, 830.36, 830.37, or 830.4, that a felony or
7 misdemeanor has been committed, knowing the report to be false,
8 is guilty of a misdemeanor if (1) the false information is given
9 while the employee is engaged in the performance of his or her
10 duties as an agency employee and (2) the person providing the
11 false information knows or should have known that the person
12 receiving the information is an agency employee engaged in the
13 performance of the duties described in this subdivision.

14 (d) Every person who makes a report to a grand jury that a
15 felony or misdemeanor has been committed, knowing the report
16 to be false, is guilty of a misdemeanor. This subdivision shall not
17 be construed as prohibiting or precluding a charge of perjury or
18 contempt for any report made under oath in an investigation or
19 proceeding before a grand jury.

20 (e) This section does not apply to reports made by persons who
21 are required by statute to report known or suspected instances of
22 child abuse, dependent adult abuse, or elder abuse.

23 (f) *This section applies to a person who reports to a person*
24 *described in subdivision (a), (b), or (c), that a firearm, as defined*
25 *in subdivision (a) or (b) of Section 16520, has been lost or stolen,*
26 *knowing the report to be false.*

27 ~~SEC. 3.~~

28 *SEC. 2.* Section 29805 of the Penal Code is amended to read:

29 29805. (a) Except as provided in Section 29855 or subdivision
30 (a) of Section 29800, any person who has been convicted of a
31 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
32 subdivision (d) of Section 148, *subdivision (f) of Section 148.5,*
33 Section 171b, paragraph (1) of subdivision (a) of Section 171c,
34 Section 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5,
35 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95,
36 subdivision (a) of former Section 12100, as that section read at
37 any time from when it was enacted by Section 3 of Chapter 1386
38 of the Statutes of 1988 to when it was repealed by Section 18 of
39 Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300,
40 25800, ~~29305~~, 30315, or 32625, subdivision (b) or (d) of Section

1 26100, or Section 27510, or Section 8100, 8101, or 8103 of the
2 Welfare and Institutions Code, any firearm-related offense pursuant
3 to Sections 871.5 and 1001.5 of the Welfare and Institutions Code,
4 or of the conduct punished in subdivision (c) of Section 27590,
5 and who, within 10 years of the conviction, owns, purchases,
6 receives, or has in possession or under custody or control, any
7 firearm is guilty of a public offense, which shall be punishable by
8 imprisonment in a county jail not exceeding one year or in the
9 state prison, by a fine not exceeding one thousand dollars (\$1,000),
10 or by both that imprisonment and fine.

11 (b) The court, on forms prescribed by the Department of Justice,
12 shall notify the department of persons subject to this section.
13 However, the prohibition in this section may be reduced,
14 eliminated, or conditioned as provided in Section 29855 or 29860.

15 *SEC. 2.5. Section 29805 of the Penal Code is amended to read:*

16 29805. (a) Except as provided in Section 29855 or subdivision
17 (a) of Section 29800, any person who has been convicted of a
18 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
19 subdivision (d) of Section 148, *subdivision (f) of Section 148.5,*
20 Section 171b, paragraph (1) of subdivision (a) of Section 171c,
21 Section 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5,
22 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 490.2 *if the property*
23 *taken was a firearm, 496 if the property consists of a firearm,*
24 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100,
25 as that section read at any time from when it was enacted by
26 Section 3 of Chapter 1386 of the Statutes of 1988 to when it was
27 repealed by Section 18 of Chapter 23 of the Statutes of 1994,
28 Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision
29 (b) or (d) of Section 26100, or Section 27510, or Section 8100,
30 8101, or 8103 of the Welfare and Institutions Code, any
31 firearm-related offense pursuant to Sections 871.5 and 1001.5 of
32 the Welfare and Institutions Code, or of the conduct punished in
33 subdivision (c) of Section 27590, and who, within 10 years of the
34 conviction, owns, purchases, receives, or has in possession or under
35 custody or control, any firearm is guilty of a public offense, which
36 shall be punishable by imprisonment in a county jail not exceeding
37 one year or in the state prison, by a fine not exceeding one thousand
38 dollars (\$1,000), or by both that imprisonment and fine. ~~The court,~~
39 ~~on forms prescribed by the Department of Justice, shall notify the~~
40 ~~department of persons subject to this section. However, the~~

1 ~~prohibition in this section may be reduced, eliminated, or~~
2 ~~conditioned as provided in Section 29855 or 29860.~~

3 *(b) The court, on forms prescribed by the Department of Justice,*
4 *shall notify the department of persons subject to this section.*
5 *However, the prohibition in this section may be reduced,*
6 *eliminated, or conditioned as provided in Section 29855 or 29860.*

7 SEC. 3. *Section 2.5 of this bill incorporates amendments to*
8 *Section 29805 of the Penal Code proposed by both this bill and*
9 *Assembly Bill 1176. It shall only become operative if (1) both bills*
10 *are enacted and become effective on or before January 1, 2017,*
11 *(2) each bill amends Section 29805 of the Penal Code, and (3) this*
12 *bill is enacted after Assembly Bill 1176, in which case Section 2*
13 *of this bill shall not become operative.*

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.