

AMENDED IN ASSEMBLY APRIL 17, 1995
AMENDED IN ASSEMBLY MARCH 10, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 92

Introduced by Assembly Member Hauser

January 4, 1995

An act to amend Sections 12023, 12026, 12026.1, and 12026.2 of, and to add and repeal Section 12038 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 92, as amended, Hauser. Firearms.

(1) Existing law provides that every person who carries a loaded firearm with the intent to commit a felony is guilty of armed criminal action, punishable by imprisonment in a county jail not exceeding one year or in the state prison.

This bill would provide instead that every person who carries a firearm, loaded or not, with the intent to commit a felony is guilty of armed criminal action. A violation of this provision where the firearm is loaded or the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person is armed criminal action of the first degree, punishable by imprisonment in the state prison for 2, 3, or 4 years. All other violations are armed criminal action of the second degree, punishable by imprisonment in a county jail not exceeding one year or in the state prison.

(2) Existing law makes it a misdemeanor, with limited exceptions, for any person to carry a concealable weapon concealed within any vehicle or concealed upon the person without having a license. Existing law provides that notwithstanding this prohibition, any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state and who is not within certain excepted classes shall not be prohibited from owning, possessing, keeping, or carrying, either openly or concealed, anywhere within his or her place of residence, place of business, or on private property a concealable weapon.

This bill would provide, instead, that the above prohibition shall not apply to or affect any citizen of the United States or legal resident as specified above who carries a concealable weapon within or on the described places or property. The bill would additionally make the above prohibition inapplicable to the transportation of a firearm to an authorized government representative who is acquiring the weapon as a part of an authorized voluntary program to buy or receive weapons from private individuals.

(3) Existing law requires the Attorney General to make reports to the Legislature regarding various subjects, including wiretapping, sex abuse offenses, hate crimes, and domestic violence. Existing law requires local law enforcement entities to submit specified information to the Attorney General.

This bill would require the ~~district attorney of each county~~ *Attorney General* to prepare and submit to the ~~Attorney General~~ *Legislature* until 1999 an annual report consisting of profiles by race, age, gender, and ethnicity of persons charged with specified felonies for the current and previous calendar years. ~~It would also require the Attorney General to prepare and submit to the Legislature until 1999 an annual report compiling all of the reports submitted to the Attorney General. The bill would impose a state-mandated local program by expanding the scope of the reporting duties of the district attorney in each county.~~

~~(4) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 12023 of the Penal Code is
2 amended to read:

3 12023. (a) Every person who carries a firearm with
4 the intent to commit a felony is guilty of armed criminal
5 action.

6 (b) (1) Armed criminal action is in the first degree
7 where either of the following exists:

8 (A) The firearm is loaded.

9 (B) The firearm is a pistol, revolver, or other firearm
10 capable of being concealed upon the person.

11 (2) All kinds of armed criminal action other than that
12 specified in paragraph (1) are in the second degree.

13 (c) Armed criminal action is punishable as follows:

14 (1) Armed criminal action in the first degree is
15 punishable by imprisonment in the state prison for two,
16 three, or four years.

17 (2) Armed criminal action in the second degree is
18 punishable by imprisonment in a county jail not
19 exceeding one year, or in the state prison.

20 SEC. 2. Section 12026 of the Penal Code is amended
21 to read:

22 12026. (a) Section 12025 shall not apply to or affect
23 any citizen of the United States or legal resident over the
24 age of 18 years who resides or is temporarily within this
25 state, and who is not within the excepted classes
26 prescribed by Section 12021 or 12021.1 of this code or



1 Section 8100 or 8103 of the Welfare and Institutions Code,
2 who carries, either openly or concealed, anywhere within
3 the citizen’s or legal resident’s place of residence, place
4 of business, or on private property owned or lawfully
5 possessed by the citizen or legal resident any pistol,
6 revolver, or other firearm capable of being concealed
7 upon the person.

8 (b) No permit or license to purchase, own, possess,
9 keep, or carry, either openly or concealed, shall be
10 required of any citizen of the United States or legal
11 resident over the age of 18 years who resides or is
12 temporarily within this state, and who is not within the
13 excepted classes prescribed by Section 12021 or 12021.1 of
14 this code or Section 8100 or 8103 of the Welfare and
15 Institutions Code, to purchase, own, possess, keep, or
16 carry, either openly or concealed, a pistol, revolver, or
17 other firearm capable of being concealed upon the
18 person within the citizen’s or legal resident’s place of
19 residence, place of business, or on private property
20 owned or lawfully possessed by the citizen or legal
21 resident.

22 (c) Nothing in this section shall be construed as
23 affecting the application of Section 12031.

24 SEC. 3. Section 12026.1 of the Penal Code is amended
25 to read:

26 12026.1. (a) Section 12025 shall not be construed to
27 prohibit any citizen of the United States over the age of
28 18 years who resides or is temporarily within this state,
29 and who is not within the excepted classes prescribed by
30 Section 12021 or 12021.1 of this code or Section 8100 or
31 8103 of the Welfare and Institutions Code, from
32 transporting or carrying any pistol, revolver, or other
33 firearm capable of being concealed upon the person,
34 provided that the following applies to the firearm:

35 (1) The firearm is within a motor vehicle and it is
36 locked in the vehicle’s trunk or in a locked container in
37 the vehicle other than the utility or glove compartment.

38 (2) The firearm is carried by the person directly to or
39 from any motor vehicle for any lawful purpose and, while



1 carrying the firearm, the firearm is contained within a
2 locked container.

3 (b) The provisions of this section do not prohibit or
4 limit the otherwise lawful carrying or transportation of
5 any pistol, revolver, or other firearm capable of being
6 concealed upon the person in accordance with this
7 chapter.

8 (c) As used in this section, “locked container” means
9 a secure container which is fully enclosed and locked by
10 a padlock, key lock, combination lock, or similar locking
11 device.

12 SEC. 4. Section 12026.2 of the Penal Code is amended
13 to read:

14 12026.2. (a) Section 12025 does not apply to, or affect,
15 any of the following:

16 (1) The possession of a firearm by an authorized
17 participant in a motion picture, television, or video
18 production or entertainment event when the participant
19 lawfully uses the firearm as part of that production or
20 event or while going directly to, or coming directly from,
21 that production or event.

22 (2) The possession of a firearm in a locked container by
23 a member of any club or organization, organized for the
24 purpose of lawfully collecting and lawfully displaying
25 pistols, revolvers, or other firearms, while the member is
26 at meetings of the clubs or organizations or while going
27 directly to, and coming directly from, those meetings.

28 (3) The transportation of a firearm by a participant
29 when going directly to, or coming directly from, a
30 recognized safety or hunter safety class, or a recognized
31 sporting event involving that firearm.

32 (4) The transportation of a firearm by a person listed
33 in Section 12026 directly between any of the places
34 mentioned in Section 12026.

35 (5) The transportation of a firearm by a person when
36 going directly to, or coming directly from, a fixed place
37 of business or private residential property for the purpose
38 of the lawful repair or the lawful transfer, sale, or loan of
39 that firearm.



1 (6) The transportation of a firearm by a person listed
2 in Section 12026 when going directly from the place
3 where that person lawfully received that firearm to that
4 person's place of residence or place of business or to
5 private property owned or lawfully possessed by that
6 person.

7 (7) The transportation of a firearm by a person when
8 going directly to, or coming directly from, a gun show,
9 swap meet, or similar event to which the public is invited,
10 for the purpose of displaying that firearm in a lawful
11 manner.

12 (8) The transportation of a firearm by an authorized
13 employee or agent of a supplier of firearms when going
14 directly to, or coming directly from, a motion picture,
15 television, or video production or entertainment event
16 for the purpose of providing that firearm to an authorized
17 participant to lawfully use as a part of that production or
18 event.

19 (9) The transportation of a firearm by a person when
20 going directly to, or coming directly from, a target range,
21 which holds a regulatory or business license, for the
22 purposes of practicing shooting at targets with that
23 firearm at that target range.

24 (10) The transportation of a firearm by a person when
25 going directly to, or coming directly from, a place
26 designated by a person authorized to issue licenses
27 pursuant to Section 12050 when done at the request of the
28 issuing agency so that the issuing agency can determine
29 whether or not a license should be issued to that person
30 to carry that firearm.

31 (11) The transportation of a firearm by a person when
32 going directly to, or coming directly from, a law
33 enforcement agency for the purpose of a lawful transfer,
34 sale, or loan of that firearm pursuant to Section 12084.

35 (12) The transportation of a firearm by a person when
36 going directly to, or coming directly from, a lawful
37 camping activity for the purpose of having that firearm
38 available for lawful personal protection while at the
39 lawful campsite. This paragraph shall not be construed to
40 override the statutory authority granted to the



1 Department of Parks and Recreation or any other state
2 or local governmental agencies to promulgate rules and
3 regulations governing the administration of parks and
4 campgrounds.

5 (13) The transportation of a firearm by a person in
6 order to comply with subdivision (c) or (i) of Section
7 12078 as it pertains to that firearm.

8 (14) The transportation of a firearm by a person in
9 order to utilize subdivision (l) of Section 12078 as it
10 pertains to that firearm.

11 (15) The transportation of a firearm by a person when
12 going directly to, or coming directly from, a gun show or
13 event, as defined in Section 178.100 of Title 27 of the Code
14 of Federal Regulations, for the purpose of lawfully
15 transferring, selling, or loaning that firearm in
16 accordance with subdivision (d) of Section 12072.

17 (16) The transportation of a firearm by a person in
18 order to utilize paragraph (3) of subdivision (a) of
19 Section 12078 as it pertains to that firearm.

20 (b) In order for a firearm to be exempted under
21 subdivision (a), while being transported to or from a
22 place, the firearm shall be unloaded, kept in a locked
23 container, as defined in subdivision (d), and the course of
24 travel shall include only those deviations between
25 authorized locations as are reasonably necessary under
26 the circumstances.

27 (c) This section does not prohibit or limit the
28 otherwise lawful carrying or transportation of any pistol,
29 revolver, or other firearm capable of being concealed
30 upon the person in accordance with this chapter.

31 (d) As used in this section, "locked container" means
32 a secure container which is fully enclosed and locked by
33 a padlock, key lock, combination lock, or similar locking
34 device. The term "locked container" does not include the
35 utility or glove compartment of a motor vehicle.

36 SEC. 5. Section 12038 is added to the Penal Code, to
37 read:

38 ~~12038. (a) The district attorney of each county shall~~
39 ~~submit annually on or before June 30 to the Attorney~~
40 ~~General a report consisting of profiles by race, age,~~



1 ~~gender, and ethnicity of persons charged with felonies~~
2 ~~under paragraph (2) of subdivision (b) of Section 12025~~
3 ~~for the current and previous calendar year.~~

4 ~~(b) The Attorney General shall prepare and submit~~
5 ~~annually on or before December 31 to the Legislature a~~
6 ~~report compiling all of the reports submitted pursuant to~~
7 ~~subdivision (a).~~

8 ~~(e)~~

9 *12038. (a) The Attorney General shall prepare and*
10 *submit to the Legislature on or before December 31 of*
11 *each year a report consisting of profiles by race, age,*
12 *gender, and ethnicity of persons charged with felonies*
13 *under paragraph (2) of subdivision (b) of Section 12025*
14 *for the current and previous calendar year.*

15 *(b) This section shall remain in effect only until*
16 *January 1, 1999, and as of that date is repealed.*

17 ~~SEC. 6. Notwithstanding Section 17610 of the~~
18 ~~Government Code, if the Commission on State Mandates~~
19 ~~determines that this act contains costs mandated by the~~
20 ~~state, reimbursement to local agencies and school~~
21 ~~districts for those costs shall be made pursuant to Part 7~~
22 ~~(commencing with Section 17500) of Division 4 of Title~~
23 ~~2 of the Government Code. If the statewide cost of the~~
24 ~~claim for reimbursement does not exceed one million~~
25 ~~dollars (\$1,000,000), reimbursement shall be made from~~
26 ~~the State Mandates Claims Fund.~~

27 ~~Notwithstanding Section 17580 of the Government~~
28 ~~Code, unless otherwise specified, the provisions of this act~~
29 ~~shall become operative on the same date that the act~~
30 ~~takes effect pursuant to the California Constitution.~~

