

AMENDED IN ASSEMBLY JANUARY 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 577

Introduced by Assembly Member Villaraigosa

February 17, 1995

An act to amend Sections 12071 and 12072 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 577, as amended, Villaraigosa. Firearms: trigger locks.

Existing law specifies prohibitions and requirements with regard to the circumstances under which a person licensed to sell firearms may sell or transfer a firearm.

This bill would require a person licensed to sell firearms to offer to sell with each firearm a trigger lock or similar device approved by the Attorney General that is designed to prevent the unintentional discharge of the firearm. A violation of this provision would be a misdemeanor. Because this bill would create a new crime, it 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 12071 of the Penal Code is~~
2 *SECTION 1. Section 12071 of the Penal Code is*
3 *amended to read:*

4 12071. (a) (1) As used in this chapter, the term
5 “licensee,” “person licensed pursuant to Section 12071,”
6 or “dealer” means a person who (A) has a valid federal
7 firearms license, (B) has any regulatory or business
8 license, or licenses, required by local government, (C)
9 has a valid seller’s permit issued by the State Board of
10 Equalization, (D) has a certificate of eligibility issued by
11 the Department of Justice pursuant to paragraph (4), (E)
12 has a license issued in the format prescribed by paragraph
13 (6), and (F) is among those recorded in the centralized
14 list specified in subdivision (e).

15 (2) The duly constituted licensing authority of a city,
16 county, or a city and county shall accept applications for,
17 and may grant licenses permitting, licensees to sell
18 firearms at retail within the city, county, or city and
19 county. The duly constituted licensing authority shall
20 inform applicants who are denied licenses of the reasons
21 for the denial in writing.

22 (3) No license shall be granted to any applicant who
23 fails to provide a copy of his or her valid federal firearms
24 license, valid seller’s permit issued by the State Board of
25 Equalization, and the certificate of eligibility described in
26 paragraph (4).

27 (4) A person may request a certificate of eligibility
28 from the Department of Justice and the Department of
29 Justice shall issue a certificate to an applicant if the
30 department’s records indicate that the applicant is not a
31 person who is prohibited from possessing firearms.

32 (5) The department shall adopt regulations to
33 administer the certificate of eligibility program and shall
34 recover the full costs of administering the program by
35 imposing fees assessed to applicants who apply for those
36 certificates.

37 (6) A license granted by the duly constituted licensing
38 authority of any city, county, or city and county, shall be



1 valid for not more than one year from the date of issuance
2 and shall be in one of the following forms:

3 (A) In the form prescribed by the Attorney General.

4 (B) A regulatory or business license that states on its
5 face “Valid for Retail Sales of Firearms” and is endorsed
6 by the signature of the issuing authority.

7 (C) A letter from the duly constituted licensing
8 authority having primary jurisdiction for the applicant’s
9 intended business location stating that the jurisdiction
10 does not require any form of regulatory or business
11 license or does not otherwise restrict or regulate the sale
12 of firearms.

13 (7) Local licensing authorities may assess fees to
14 recover their full costs of processing applications for
15 licenses.

16 (b) A license is subject to forfeiture for a breach of any
17 of the following prohibitions and requirements:

18 (1) (A) Except as provided in subparagraphs (B) and
19 (C), the business shall be conducted only in the buildings
20 designated in the license.

21 (B) A person licensed pursuant to subdivision (a) may
22 take possession of firearms and commence preparation of
23 registers for the sale, delivery, or transfer of firearms at
24 gun shows or events, as defined in Section 178.100 of Title
25 27 of the Code of Federal Regulations, or its successor, if
26 the gun show or event is not conducted from any
27 motorized or towed vehicle. A person conducting
28 business pursuant to this subparagraph shall be entitled
29 to conduct business as authorized herein at any gun show
30 or event in the state without regard to the jurisdiction
31 within this state that issued the license pursuant to
32 subdivision (a), provided the person complies with (i) all
33 applicable laws, including, but not limited to, the 15-day
34 waiting period specified in subparagraph (A) of
35 paragraph (3), and (ii) all applicable local laws,
36 regulations, and fees, if any.

37 A person conducting business pursuant to this
38 subparagraph shall publicly display his or her license
39 issued pursuant to subdivision (a), or a facsimile thereof,



1 at any gun show or event, as specified in this
2 subparagraph.

3 (C) A person licensed pursuant to subdivision (a) may
4 engage in the sale and transfer of firearms other than
5 pistols, revolvers, or other firearms capable of being
6 concealed upon the person, at events specified in
7 subdivision (g) of Section 12078, subject to the
8 prohibitions and restrictions contained in that
9 subdivision.

10 A person licensed pursuant to subdivision (a) also may
11 accept delivery of firearms other than pistols, revolvers,
12 or other firearms capable of being concealed upon the
13 person, outside the building designated in the license,
14 provided the firearm is being donated for the purpose of
15 sale or transfer at an auction or similar event specified in
16 subdivision (g) of Section 12078.

17 (D) The firearm may be delivered to the purchaser,
18 transferee, or person being loaned the firearm at one of
19 the following places:

- 20 (i) The building designated in the license.
- 21 (ii) The places specified in subparagraphs (B) or (C).
- 22 (iii) The place of residence of, the fixed place of
23 business of, or on private property owned or lawfully
24 possessed by, the purchaser, transferee, or person being
25 loaned the firearm.

26 (2) The license or a copy thereof, certified by the
27 issuing authority, shall be displayed on the premises
28 where it can easily be seen.

29 (3) No firearm shall be delivered:

30 (A) Prior to January 1, 1996, within 15 days of the
31 application for the purchase, or, after notice by the
32 department pursuant to subdivision (c) of Section 12076,
33 within 15 days of the submission to the department of
34 corrected copies of the register, or within 15 days of the
35 submission to the department of any fee required
36 pursuant to subdivision (d) of Section 12076, whichever
37 is later. On or after January 1, 1996, within 15 days of the
38 application for the purchase of a pistol, revolver, or other
39 firearm capable of being concealed upon the person, or,
40 after notice by the department pursuant to subdivision



1 (c) of Section 12076, within 15 days of the submission to
2 the department of corrected copies of the register, or
3 within 15 days of the submission to the department of any
4 fee required pursuant to subdivision (d) of Section 12076,
5 whichever is later. On or after January 1, 1996, within 10
6 days of the application for the purchase of any other
7 firearm, or, after notice by the department pursuant to
8 subdivision (c) of Section 12076, within 10 days of the
9 submission to the department of corrected copies of the
10 register, or within 10 days of the submission to the
11 department of any fee required pursuant to subdivision
12 (d) of Section 12076, whichever is later.

13 (B) Unless unloaded and securely wrapped or
14 unloaded and in a locked container.

15 (C) Unless the purchaser, transferee, or person being
16 loaned the firearm presents clear evidence of his or her
17 identity and age to the dealer.

18 (D) Whenever the dealer is notified by the
19 Department of Justice that the person is in a prohibited
20 class described in Section 12021 or 12021.1 of this code or
21 Section 8100 or 8103 of the Welfare and Institutions Code.

22 (4) No pistol, revolver, or other firearm or imitation
23 thereof capable of being concealed upon the person, or
24 placard advertising the sale or other transfer thereof, shall
25 be displayed in any part of the premises where it can
26 readily be seen from the outside.

27 (5) The licensee shall agree to and shall act properly
28 and promptly in processing firearms transactions
29 pursuant to Section 12082.

30 (6) The licensee shall comply with Sections 12073,
31 12076, and 12077, subdivisions (a) and (b) of Section
32 12072, and subdivision (a) of Section 12316.

33 (7) The licensee shall post conspicuously within the
34 licensed premises the following warnings in block letters
35 not less than one inch in height:

36 (A) "IF YOU LEAVE A LOADED FIREARM
37 WHERE A CHILD OBTAINS AND IMPROPERLY
38 USES IT, YOU MAY BE FINED OR SENT TO PRISON."

39 (B) "DISCHARGING FIREARMS IN POORLY
40 VENTILATED AREAS, CLEANING FIREARMS, OR



1 HANDLING AMMUNITION MAY RESULT IN
 2 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO
 3 CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM,
 4 AND OTHER SERIOUS PHYSICAL INJURY. HAVE
 5 ADEQUATE VENTILATION AT ALL TIMES. WASH
 6 HANDS THOROUGHLY AFTER EXPOSURE.”

7 (8) Commencing April 1, 1994, no pistol, revolver, or
 8 other firearm capable of being concealed upon the
 9 person shall be delivered unless the purchaser,
 10 transferee, or person being loaned the firearm presents
 11 to the dealer a basic firearm safety certificate.

12 (9) (A) Commencing July 1, ~~1992,~~ *the 1997, the*
 13 *licensee shall offer to sell the purchaser or transferee of*
 14 *a firearm, or person being loaned a firearm, a trigger lock*
 15 *or similar device. The trigger lock or similar device shall*
 16 *be approved by the Attorney General and designed to*
 17 *prevent the unintentional discharge of the firearm.*

18 (B) *The licensee shall offer to provide the purchaser*
 19 *or transferee of a firearm, or person being loaned a*
 20 *firearm, with a copy of the pamphlet described in Section*
 21 *12080 and may add the cost of the pamphlet, if any, to the*
 22 *sales price of the firearm.*

23 (10) The licensee shall not commit an act of collusion
 24 as defined in Section 12072.

25 (11) The licensee shall post conspicuously within the
 26 licensed premises a detailed list of each of the following:

27 (A) All charges required by governmental agencies
 28 for processing firearm transfers required by Sections
 29 12076, 12082, and 12806.

30 (B) All fees that the licensee charges pursuant to
 31 Sections 12082 and 12806.

32 (12) The licensee shall not misstate the amount of fees
 33 charged by a governmental agency pursuant to Sections
 34 12076, 12082, and 12806.

35 (13) The licensee shall report the loss or theft of any
 36 firearm that is merchandise of the licensee, any firearm
 37 that the licensee takes possession of pursuant to Section
 38 12082, or any firearm kept at the licensee’s place of
 39 business within 48 hours of discovery to the appropriate
 40 law enforcement agency in the city, county, or city and



1 county where the licensee's business premises are
2 located.

3 (14) In a city and county, or in the unincorporated
4 area of a county with a population of 200,000 persons or
5 more according to the most recent federal decennial
6 census or within a city with a population of 50,000 persons
7 or more according to the most recent federal decennial
8 census, any time the licensee is not open for business, the
9 licensee shall store all firearms kept in his or her licensed
10 place of business using one of the following methods as to
11 each particular firearm:

12 (A) Store the firearm in a secure facility that is a part
13 of, or that constitutes, the licensee's business premises.

14 (B) Secure the firearm with a hardened steel rod or
15 cable of at least one-eighth inch in diameter through the
16 trigger guard of the firearm. The steel rod or cable shall
17 be secured with a hardened steel lock that has a shackle.
18 The lock and shackle shall be protected or shielded from
19 the use of a bolt cutter and the rod or cable shall be
20 anchored in a manner that prevents the removal of the
21 firearm from the premises.

22 (C) Store the firearm in a locked fireproof safe or vault
23 in the licensee's business premises.

24 (15) The licensing authority in an unincorporated area
25 of a county with a population less than 200,000 persons
26 according to the most recent federal decennial census or
27 within a city with a population of less than 50,000 persons
28 according to the most recent federal decennial census
29 may impose the requirements specified in paragraph
30 (14).

31 (16) Commencing January 1, 1994, the licensee shall,
32 upon the issuance or renewal of a license, submit a copy
33 of the same to the Department of Justice.

34 (17) The licensee shall maintain and make available
35 for inspection during business hours to any peace officer,
36 authorized local law enforcement employee, or
37 Department of Justice employee designated by the
38 Attorney General, upon the presentation of proper
39 identification, a firearms transaction record.



1 (18) (A) On the date of receipt, the licensee shall
2 report to the Department of Justice in a format
3 prescribed by the department the acquisition by the
4 licensee of the ownership of a pistol, revolver, or other
5 firearm capable of being concealed upon the person.

6 (B) The provisions of this paragraph shall not apply to
7 any of the following transactions:

8 (i) A transaction subject to the provisions of
9 subdivision (n) of Section 12078.

10 (ii) The dealer acquired the firearm from a
11 wholesaler.

12 (iii) The dealer is also licensed as a secondhand dealer
13 pursuant to Article 4 (commencing with Section 21625)
14 of Chapter 9 of Division 8 of the Business and Professions
15 Code.

16 (iv) The dealer acquired the firearm from a person
17 who is licensed as a manufacturer or importer to engage
18 in those activities pursuant to Chapter 44 (commencing
19 with Section 921) of Title 18 of the United States Code and
20 any regulations issued pursuant thereto.

21 (v) The dealer acquired the firearm from a person
22 who resides outside this state who is licensed pursuant to
23 Chapter 44 (commencing with Section 921) of Title 18 of
24 the United States Code and any regulations issued
25 pursuant thereto.

26 (c) (1) As used in this article, “clear evidence of his or
27 her identity and age” means either of the following:

28 (A) A valid California driver’s license.

29 (B) A valid California identification card issued by the
30 Department of Motor Vehicles.

31 (2) As used in this article, a “basic firearm safety
32 certificate” means a basic firearm certificate issued to the
33 purchaser, transferee, or person being loaned the firearm
34 by the Department of Justice pursuant to Article 8
35 (commencing with Section 12800) of Chapter 6.

36 (3) As used in this section, a “secure facility” means a
37 building that meets all of the following specifications:

38 (A) All perimeter doorways shall meet one of the
39 following:



1 (i) A windowless steel security door equipped with
2 both a dead bolt and a doorknob lock.

3 (ii) A windowed metal door that is equipped with both
4 a dead bolt and a doorknob lock. If the window has an
5 opening of five inches or more measured in any direction,
6 the window shall be covered with steel bars of at least
7 one-half inch diameter or metal grating of at least nine
8 gauge affixed to the exterior or interior of the door.

9 (iii) A metal grate that is padlocked and affixed to the
10 licensee's premises independent of the door and
11 doorframe.

12 (B) All windows are covered with steel bars.

13 (C) Heating, ventilating, air-conditioning, and service
14 openings are secured with steel bars, metal grating, or an
15 alarm system.

16 (D) Any metal grates have spaces no larger than six
17 inches wide measured in any direction.

18 (E) Any metal screens have spaces no larger than
19 three inches wide measured in any direction.

20 (F) All steel bars shall be no further than six inches
21 apart.

22 (4) As used in this section, "licensed premises,"
23 "licensed place of business," "licensee's place of
24 business," or "licensee's business premises" means the
25 building designated in the license.

26 (5) For purposes of paragraph (17) of subdivision (b):

27 (A) A "firearms transaction record" is a record
28 containing the same information referred to in Section
29 178.124a and subdivision (e) of Section 178.125 of Title 27
30 of the Code of Federal Regulations.

31 (B) A licensee shall be in compliance with the
32 provisions of paragraph (17) of subdivision (b) if he or she
33 maintains and makes available for inspection during
34 business hours to any peace officer, authorized local law
35 enforcement employee, or Department of Justice
36 employee designated by the Attorney General, upon the
37 presentation of proper identification, the bound book
38 containing the same information referred to in Section
39 178.124a and subdivision (e) of Section 178.125 of Title 27
40 of the Code of Federal Regulations.



1 (d) Upon written request from a licensee, the
2 licensing authority may grant an exemption from
3 compliance with the requirements of paragraph (14) of
4 subdivision (b) if the licensee is unable to comply with
5 those requirements because of local ordinances,
6 covenants, lease conditions, or similar circumstances not
7 under the control of the licensee.

8 (e) Except as otherwise provided in this subdivision,
9 the Department of Justice shall keep a centralized list of
10 all persons licensed pursuant to subparagraphs (A) to
11 (E), inclusive, of paragraph (1) of subdivision (a). The
12 department may remove from this list any person who
13 knowingly or with gross negligence violates this article.
14 Upon removal of a dealer from this list, notification shall
15 be provided to local law enforcement and licensing
16 authorities in the jurisdiction where the dealer's business
17 is located. The department shall make information about
18 an individual dealer available, upon request, for one of
19 the following purposes only:

20 (1) For law enforcement purposes.

21 (2) When the information is requested by a person
22 licensed pursuant to Chapter 44 (commencing with
23 Section 921) of Title 18 of the United States Code for
24 determining the validity of the license for firearm
25 shipments.

26 (f) The Department of Justice may inspect dealers to
27 ensure compliance with this article. The department may
28 assess an annual fee, not to exceed eighty-five dollars
29 (\$85), to cover the reasonable cost of maintaining the list
30 described in subdivision (e), including the cost of
31 inspections. Dealers whose place of business is in a
32 jurisdiction that has adopted an inspection program to
33 ensure compliance with firearms law shall be exempt
34 from that portion of the department's fee that relates to
35 the cost of inspections. The applicant is responsible for
36 providing evidence to the department that the
37 jurisdiction in which the business is located has the
38 inspection program.

39 (g) The Department of Justice shall maintain and
40 make available upon request information concerning the



1 number of inspections conducted and the amount of fees
2 collected pursuant to subdivision (f), a listing of
3 exempted jurisdictions, as defined in subdivision (f), the
4 number of dealers removed from the centralized list
5 defined in subdivision (e), and the number of dealers
6 found to have violated this article with knowledge or
7 gross negligence.

8 (h) Paragraph (14) or (15) of subdivision (b) shall not
9 apply to a licensee organized as a nonprofit public benefit
10 or mutual benefit corporation organized pursuant to Part
11 2 (commencing with Section 5110) or Part 3
12 (commencing with Section 7110) of Division 2 of the
13 Corporations Code, if both of the following conditions are
14 satisfied:

15 (1) The nonprofit public benefit or mutual benefit
16 corporation obtained the dealer's license solely and
17 exclusively to assist that corporation or local chapters of
18 that corporation in conducting auctions or similar events
19 at which firearms are auctioned off to fund the activities
20 of that corporation or the local chapters of the
21 corporation.

22 (2) The firearms are not pistols, revolvers, or other
23 firearms capable of being concealed upon the person.

24 *SEC. 2. Section 12072 of the Penal Code is amended*
25 *to read:*

26 12072. (a) (1) No person, corporation, or firm shall
27 knowingly supply, deliver, sell, or give possession or
28 control of a firearm to any person within any of the classes
29 prohibited by Section 12021 or 12021.1.

30 (2) No person, corporation, or dealer shall sell, supply,
31 deliver, or give possession or control of a firearm to any
32 person whom he or she has cause to believe to be within
33 any of the classes prohibited by Section 12021 or 12021.1
34 of this code or Section 8100 or 8103 of the Welfare and
35 Institutions Code.

36 (3) (A) No person, corporation, or firm shall sell, loan,
37 or transfer a firearm to a minor.

38 (B) Subparagraph (A) shall not apply to or affect those
39 circumstances set forth in subdivision (p) of Section
40 12078.



1 (4) No person, corporation, or dealer shall sell, loan, or
2 transfer a firearm to any person whom he or she knows
3 or has cause to believe is not the actual purchaser or
4 transferee of the firearm, or to any person who is not the
5 person actually being loaned the firearm, if the person,
6 corporation, or dealer has either of the following:

7 (A) Knowledge that the firearm is to be subsequently
8 loaned, sold, or transferred to avoid the provisions of
9 subdivision (c) or (d).

10 (B) Knowledge that the firearm is to be subsequently
11 loaned, sold, or transferred to avoid the requirements of
12 any exemption to the provisions of subdivision (c) or (d).

13 (5) No person, corporation, or dealer shall acquire a
14 firearm for the purpose of selling, transferring, or loaning
15 the firearm, if the person, corporation, or dealer has
16 either of the following:

17 (A) In the case of a dealer, intent to violate subdivision
18 (b) or (c).

19 (B) In any other case, intent to avoid either of the
20 following:

21 (i) The provisions of subdivision (d).

22 (ii) The requirements of any exemption to the
23 provisions of subdivision (d).

24 (6) The dealer shall comply with the provisions of
25 paragraph (18) of subdivision (b) of Section 12071.

26 (b) No person licensed under Section 12071 shall
27 supply, sell, deliver, or give possession or control of a
28 pistol, revolver, or firearm capable of being concealed
29 upon the person to any person under the age of 21 years
30 or any other firearm to a person under the age of 18 years.

31 (c) No dealer, whether or not acting pursuant to
32 Section 12082, shall deliver a firearm to a person, as
33 follows:

34 (1) Prior to January 1, 1996, within 15 days of the
35 application for the purchase, or, after notice by the
36 department pursuant to subdivision (c) of Section 12076,
37 within 15 days of the submission to the department of
38 corrected copies of the register, or within 15 days of the
39 submission to the department of any fee required
40 pursuant to subdivision (d) of Section 12076, whichever



1 is later. On or after January 1, 1996, within 15 days of the
2 application for the purchase of a pistol, revolver, or other
3 firearm capable of being concealed upon the person, or,
4 after notice by the department pursuant to subdivision
5 (c) of Section 12076, within 15 days of the submission to
6 the department of corrected copies of the register, or
7 within 15 days of the submission to the department of any
8 fee required pursuant to subdivision (d) of Section 12076,
9 whichever is later. On or after January 1, 1996, within 10
10 days of the application for the purchase of any other
11 firearm, or, after notice by the department pursuant to
12 subdivision (c) of Section 12076, within 10 days of the
13 submission to the department of corrected copies of the
14 register, or within 10 days of the submission to the
15 department of any fee required pursuant to subdivision
16 (d) of Section 12076, whichever is later.

17 (2) Unless unloaded and securely wrapped or
18 unloaded and in a locked container.

19 (3) Unless the purchaser, transferee, or person being
20 loaned the firearm presents clear evidence of his or her
21 identity and age, as defined in Section 12071, to the
22 dealer.

23 (4) Whenever the dealer is notified by the
24 Department of Justice that the person is in a prohibited
25 class described in Section 12021 or 12021.1 of this code or
26 Section 8100 or 8103 of the Welfare and Institutions Code.

27 (5) Commencing April 1, 1994, no pistol, revolver, or
28 other firearm capable of being concealed upon the
29 person shall be delivered unless the purchaser,
30 transferee, or person being loaned the firearm presents
31 to the dealer a basic firearm safety certificate.

32 (6) *Commencing July 1, 1997, a dealer shall offer to sell*
33 *the purchaser or transferee of a firearm, or person being*
34 *loaned a firearm, a trigger lock or similar device. The*
35 *trigger lock or similar device shall be approved by the*
36 *Attorney General and designed to prevent the*
37 *unintentional discharge of the firearm.*

38 (d) Where neither party to the transaction holds a
39 dealer's license issued pursuant to Section 12071, the



1 parties to the transaction shall complete the sale, loan, or
2 transfer of that firearm through either of the following:

3 (1) A licensed dealer pursuant to Section 12082.

4 (2) A law enforcement agency pursuant to Section
5 12084.

6 (e) No person may commit an act of collusion relating
7 to Article 8 (commencing with Section 12800) of Chapter
8 6. For purposes of this section and Section 12071, collusion
9 may be proven by any one of the following factors:

10 (1) Answering a test applicant's questions during an
11 objective test relating to basic firearms safety.

12 (2) Knowingly grading the examination falsely.

13 (3) Providing an advance copy of the test to an
14 applicant.

15 (4) Taking or allowing another person to take the basic
16 firearms safety course for one who is the applicant for the
17 basic firearms safety certificate.

18 (5) Allowing another to take the objective test for the
19 applicant, purchaser, or transferee.

20 (6) Allowing others to give unauthorized assistance
21 during the examination.

22 (7) Reference to materials during the examination
23 and cheating by the applicant.

24 (8) Providing originals or photocopies of the objective
25 test, or any version thereof, to any person other than as
26 specified in subdivision (f) of Section 12805.

27 (f) No person who is licensed pursuant to Chapter 44
28 (commencing with Section 921) of Title 18 of the United
29 States Code shall deliver, sell, or transfer a firearm to a
30 person who is licensed pursuant to Chapter 44
31 (commencing with Section 921) of Title 18 of the United
32 States Code and whose licensed premises are located in
33 this state unless one of the following conditions is met:

34 (1) The person presents proof of licensure pursuant to
35 Section 12071 to that person.

36 (2) The person presents proof that he or she is exempt
37 from licensure under Section 12071 to that person, in
38 which case the person also shall present proof that the
39 transaction is also exempt from the provisions of
40 subdivision (d).



1 (g) (1) Except as provided in paragraph (2) or (3), a
2 violation of this section is a misdemeanor.

3 (2) If any of the following circumstances apply, a
4 violation of this section is punishable by imprisonment in
5 the state prison for two, three, or four years.

6 (A) If the violation is of paragraph (1) of subdivision
7 (a).

8 (B) If the defendant has a prior conviction of violating
9 this section or former Section 12100 of this code or Section
10 8101 of the Welfare and Institutions Code.

11 (C) If the defendant has a prior conviction of violating
12 any offense specified in subdivision (b) of Section 12021.1
13 or of a violation of Section 12020, 12220, or 12520, or of
14 former Section 12560.

15 (D) If the defendant is in a prohibited class described
16 in Section 12021 or 12021.1 of this code or Section 8100 or
17 8103 of the Welfare and Institutions Code.

18 (E) A violation of this section by a person who actively
19 participates in a “criminal street gang” as defined in
20 Section 186.22.

21 (3) If any of the following circumstances apply, a
22 violation of this section shall be punished by
23 imprisonment in a county jail not exceeding one year or
24 in the state prison, or by a fine not to exceed one thousand
25 dollars (\$1,000), or by both the fine and imprisonment.

26 (A) A violation of paragraph (2) of subdivision (a).

27 (B) A violation of paragraph (3) of subdivision (a)
28 involving the sale, loan, or transfer of a pistol, revolver, or
29 other firearm capable of being concealed upon the
30 person to a minor.

31 (C) A violation of paragraph (4) of subdivision (a).

32 (D) A violation of paragraph (5) of subdivision (a).

33 (E) A violation of subdivision (b) involving the
34 delivery of a pistol, revolver, or other firearm capable of
35 being concealed upon the person.

36 (F) A violation of paragraph (1), (3), (4), or (5) of
37 subdivision (c) involving a pistol, revolver, or other
38 firearm capable of being concealed upon the person.



1 (G) A violation of subdivision (d) involving a pistol,
2 revolver, or other firearm capable of being concealed
3 upon the person.

4 (H) A violation of subdivision (e).

5 *SEC. 3. No reimbursement is required by this act*
6 *pursuant to Section 6 of Article XIII B of the California*
7 *Constitution because the only costs that may be incurred*
8 *by a local agency or school district will be incurred*
9 *because this act creates a new crime or infraction,*
10 *eliminates a crime or infraction, or changes the penalty*
11 *for a crime or infraction, within the meaning of Section*
12 *17556 of the Government Code, or changes the definition*
13 *of a crime within the meaning of Section 6 of Article*
14 *XIII B of the California Constitution.*

15 *Notwithstanding Section 17580 of the Government*
16 *Code, unless otherwise specified, the provisions of this act*
17 *shall become operative on the same date that the act*
18 *takes effect pursuant to the California Constitution.*

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 17, 1995. (JR 11)**

