AMENDED IN SENATE APRIL 26, 1995

AMENDED IN SENATE APRIL 19, 1995

AMENDED IN SENATE MARCH 21, 1995

AMENDED IN SENATE FEBRUARY 27, 1995

SENATE BILL No. 357

Introduced by Senator Polanco
(Coauthor: Assembly Member Villaraigosa)

February 10, 1995

An act to amend ~~Sections~~ *Sections 12004 and* 12071, 12072, 12080, and 12316 of, and to add Section 12071.5 to, the Penal Code, *and to amend Section 8101 of the Welfare and Institutions Code,* relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 357, as amended, Polanco. Firearms: ammunition: possession: sale.

(1) Existing law prohibits any person, corporation, or firm from knowingly supplying, delivering, selling, or giving possession or control of a firearm to persons who have prior convictions for a felony, specified misdemeanors within a certain number of years, a domestic violence offense, or specified offenses subject to the juvenile court law, or to any person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order, a temporary restraining order, or an injunction, or to any person who is receiving treatment for, or has been adjudicated by a court of any state to be a danger to

others as a result of, a specified mental disorder or mental illness.

This bill would apply this prohibition to ammunition for a firearm, including, but not limited to, any bullet, cartridge, magazine, clip, speedloader, autoloader, or projectile capable of being fired from a firearm with deadly consequence.

The bill would make a number of related changes in connection with firearm offenses involving the use, sale, delivery, or loan of ammunition. The bill also would make a number of conforming changes.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

(2) Existing law regulates the licensing of persons involved in the sale, delivery, or transfer of firearms.

This bill would prohibit a person from selling, delivering, or transferring ammunition unless he or she ~~is licensed as a dealer under~~ *has a valid federal firearms license and a valid certificate of eligibility issued pursuant to* state law. The bill also would make it unlawful to deliver, sell, transfer, purchase, or obtain delivery of ammunition through the mails, a licensed delivery service, or any other common carrier unless the purchaser, transferee, or person being loaned the ammunition has a valid federal firearms license*, except as specified*. The bill would make a violation of these provisions punishable by a fine of up to $10,000 for each offense, thereby imposing a state-mandated local program by creating new crimes.

This bill would provide that no provision of the Dangerous Weapons Control Law shall be construed to limit or preempt the authority of cities, counties, or cities and counties to regulate ammunition.

(3) *Existing law prohibits a person holding any of certain specified licenses to sell firearms from supplying, selling, delivering, or giving possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years. A violation of this prohibition is a misdemeanor.*

Existing law prohibits a person, corporation, or firm from selling, loaning, or transferring a firearm to a minor. A

violation of this prohibition is punishable by imprisonment in the state prison or in a county jail not to exceed one year, or by a fine not to exceed $1,000, or by both that fine and imprisonment.

This bill instead would make a violation of these prohibitions punishable by imprisonment in the state prison for 2, 3, or 4 years. By increasing the punishment for existing crimes, the bill would impose a state-mandated local program.

(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.

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 12004 is added to the Penal*
2 *Code, to read:*
3 *12004. No provision of this chapter or Section 8101 of*
4 *the Welfare and Institutions Code shall be construed to*
5 *make paragraph (3) of subdivision (b) of Section 12071,*
6 *paragraph (1) of subdivision (c) of Section 12072, or*
7 *subdivision (d) of Section 12072 applicable to any person,*
8 *corporation, or firm that supplies, delivers, sells, or gives*
9 *possession or control of ammunition to any person in*
10 *order to supply, deliver, sell, or transfer that ammunition.*
11 *SEC. 2.* Section 12071 of the Penal Code is amended
12 to read:
13 12071. (a) (1) As used in this chapter, the term
14 ‘‘licensee,’’ ‘‘person licensed pursuant to Section 12071,’’
15 or ‘‘dealer’’ means a person who (A) has a valid federal
16 firearms license, (B) has any regulatory or business
17 license, or licenses, required by local government, (C)
18 has a valid seller’s permit issued by the State Board of
19 Equalization, (D) has a certificate of eligibility issued by
20 the Department of Justice pursuant to paragraph (4), (E)
21 has a license issued in the format prescribed by paragraph

(6), and (F) is among those recorded in the centralized list specified in subdivision (e).

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

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

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

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

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

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

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

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

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

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

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

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

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

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

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license,

provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

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

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

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

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

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

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

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

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

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

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

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

~~(B) No ammunition designed primarily for use in a pistol, revolver, or other firearm capable of being concealed upon the person, including, but not limited to, any bullet, cartridge, magazine, clip, speedloader, autoloader, or projectile capable of being fired from these firearms with deadly consequence, shall be delivered unless the purchaser, transferee, or person being loaned the ammunition presents to the dealer a basic firearm safety certificate.~~

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm or ammunition, or person being loaned a firearm or ammunition, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm or ammunition.

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

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

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

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

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

(13) The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of

the United States Code and any regulations issued pursuant thereto.

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

(A) A valid California driver’s license.

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

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

(3) As used in this section, a ‘‘secure facility’’ means a building that meets all of the following specifications:

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

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

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

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

(B) All windows are covered with steel bars.

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

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

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

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

(4) As used in this section, ‘‘licensed premises,’’ ‘‘licensed place of business,’’ ‘‘licensee’s place of

business,'' or ''licensee's business premises'' means the building designated in the license.

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

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

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

(6) As used in this section, ''ammunition'' means any bullet, cartridge, magazine, clip, speedloader, autoloader, or projectile capable of being fired from a firearm with deadly consequence.

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

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

(1) For law enforcement purposes.

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

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

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

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

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

of that corporation or the local chapters of the corporation.

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

~~SEC. 2.~~

SEC. 3. Section 12071.5 is added to the Penal Code, to read:

12071.5. (a) (1) *(A)* No person shall sell, deliver, or ~~transfer ammunition unless he or she is licensed as a dealer pursuant to this section.~~

~~This paragraph~~ *transfer ammunition unless he or she has a valid federal firearms license and a valid certificate of eligibility issued pursuant to Section 12071.*

(B) Subparagraph (A) shall not apply to the delivery, sale, or transfer of ammunition by an operator of a target facility that holds a business or regulatory license on the premises or on the premises of any club or organization organized for the purpose of practicing shooting at targets upon established ranges, whether public or private, to a person for use at that target facility or that club or organization, if the ammunition is at all times kept within the premises of the target range or on the premises of the club or organization.

(2) (A) It shall be unlawful to deliver, sell, or transfer ammunition to anyone through the mails, a licensed delivery service, or any other common carrier unless the purchaser, transferee, or person being loaned the ammunition has a valid federal firearms license.

(B) The deliverer, seller, or transferor of ammunition through the mails shall be required to record the license number of the purchaser, transferee, or person being loaned the ammunition, the person's county of residence, and the date of the purchase, transfer, or loan to document that the purchaser, transferee, or person being loaned the ammunition has a valid federal firearms license.

(3) *(A)* It shall be unlawful to purchase or obtain delivery of ammunition through the mails, a licensed delivery service, or any other common carrier, unless the

purchaser, transferee, or person being loaned the ammunition has a valid federal firearms license.

(B) Subparagraph (A) shall not apply to the purchase or acquisition of ammunition by any person from an operator of a target facility that holds a business or regulatory license on the premises or on the premises of any club or organization organized for the purpose of practice shooting at targets upon established ranges, whether public or private, for use at the target facility, club, or organization, if the ammunition is at all times kept on the premises of the target range or on the premises of the club or organization.

(4) As used in this section, ‘‘ammunition’’ means any bullet, cartridge, magazine, clip, speedloader, autoloader, or projectile capable of being fired from a firearm with deadly consequence.

(5) A violation of this section is punishable by a fine of up to ten thousand dollars ($10,000) for each offense.

(b) Subdivision (a) does not apply to a county with a population of less than 500,000 based on the most recent federal decennial census.

(c) Nothing in this chapter shall be construed to limit or preempt the authority of cities, counties, or cities and counties to regulate ammunition.

~~SEC. 3.~~

SEC. 4. Section 12072 of the Penal Code is amended to read:

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

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

~~(B) Nothing in this chapter shall be construed to require any person, corporation, or firm that supplies, delivers, sells, or gives possession or control of~~

~~ammunition to any person, to conduct a dealer record of sale background check for the supply, delivery, sale, or transfer of that ammunition.~~

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

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

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

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

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

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

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

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

(i) The provisions of subdivision (d).

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

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

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

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

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

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

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

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

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

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

(1) A licensed dealer pursuant to Section 12082.

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

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

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

(2) Knowingly grading the examination falsely.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) A violation of this section by a person who actively participates in a ‘‘criminal street gang’’ as defined in Section 186.22.

(F) A violation of subdivision (b).

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

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

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

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

~~(C)~~

(B) A violation of paragraph (4) of subdivision (a).

~~(D)~~

(C) A violation of paragraph (5) of subdivision (a).

~~(E)~~

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

~~(F)~~

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

~~(G)~~

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

~~(H)~~

(G) A violation of subdivision (e).

(h) As used in this section, ‘‘ammunition’’ means any ammunition for a firearm, including, but not limited to, any bullet, cartridge, magazine, clip, speedloader, autoloader, or projectile capable of being fired from a firearm with deadly consequence.

~~SEC. 4.~~

SEC. 5. Section 12080 of the Penal Code is amended to read:

12080. (a) The Department of Justice shall prepare a pamphlet which summarizes California firearms or ammunition laws as they pertain to persons other than law enforcement officers or members of the armed services.

(b) The pamphlet shall include the following matters:

(1) Lawful possession.

(2) Licensing procedures.

(3) Transportation and use of firearms or ammunition.

(4) Acquisition of hunting licenses.

(5) The safe handling and use of firearms or ammunition.

(6) Various methods of safe storage and child proofing of firearms or ammunition.

(7) The availability of firearms safety programs and devices.

(8) The responsibilities of firearms ownership.

(9) The operation of various types of firearms.

(10) The lawful use of deadly force.

(c) The department shall offer copies of the pamphlet at actual cost to firearms dealers licensed pursuant to Section 12071 who shall have copies of the most current version available for sale to retail purchasers or transferees of firearms and ammunition. The cost of the pamphlet, if any, may be added to the sale price of the firearm or ammunition. Other interested parties may purchase copies directly from the Department of General Services. The pamphlet shall declare that it is merely intended to provide a general summary of laws applicable to firearms and ammunition and is not designed to provide individual guidance for specific areas. Individuals having specific questions shall be directed to contact their local law enforcement agency or private counsel.

(d) The Department of Justice or any other public entity shall be immune from any liability arising from the drafting, publication, or dissemination of the pamphlet or any reliance upon it. All receipts from the sale of these pamphlets shall be deposited as reimbursements to the support appropriation for the Department of Justice.

~~SEC. 5.~~

SEC. 6. Section 12316 of the Penal Code is amended to read:

12316. (a) Any person, corporation, or dealer who sells ammunition or reloaded ammunition to a person knowing that person to be a minor under 18 years of age shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both the imprisonment and fine.

Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, ‘‘bona fide evidence of majority and identity’’ means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator’s license,

California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, ‘‘ammunition’’ shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

(3) A violation of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his

or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars ($1,000), or both the imprisonment and fine.

~~SEC. 6.~~

SEC. 7. Section 8101 of the Welfare and Institutions Code is amended to read:

8101. (a) Any person who shall knowingly supply, sell, give, or allow possession or control of a deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment in the state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(b) Any person who shall knowingly supply, sell, give, or allow possession or control of a firearm *or ammunition* to any person described in Section 8100 or 8103 shall be punished by imprisonment in the state prison for two, three, or four years.

(c) ''Deadly weapon,'' as used in this section has the meaning prescribed by Section 8100.

(d) As used in this section, ''ammunition'' means any ammunition for a firearm, including, but not limited to, any bullet, cartridge, magazine, clip, speedloader, autoloader, or projectile capable of being fired from a firearm with deadly consequence.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act

shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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