

AMENDED IN SENATE JULY 8, 1998
AMENDED IN SENATE JUNE 29, 1998
AMENDED IN SENATE JUNE 18, 1998
AMENDED IN SENATE JUNE 3, 1998
AMENDED IN SENATE JULY 10, 1997
AMENDED IN ASSEMBLY JUNE 3, 1997
AMENDED IN ASSEMBLY MAY 8, 1997
AMENDED IN ASSEMBLY MAY 1, 1997
AMENDED IN ASSEMBLY APRIL 8, 1997
AMENDED IN ASSEMBLY MARCH 31, 1997
AMENDED IN ASSEMBLY MARCH 20, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 48

**Introduced by Assembly Member Wright
(Principal coauthors: Assembly Members Cardoza and
Granlund)**

December 2, 1996

An act to add Section 12281 to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, R. Wright. Firearms: SKS rifles.

Existing law prohibits any person from manufacturing, distributing, transporting, importing, possessing or offering for sale, giving, lending, or possessing, any assault weapon as defined, and requires any person who lawfully possesses an assault weapon to register the firearm within a specified period and under specified conditions. Assault weapons are defined as coming within a specified list of semiautomatic firearms or by declaration of the superior court that the weapon is an assault weapon. An “SKS with detachable magazine” is one of the designated weapons on the specified list of semiautomatic firearms.

This bill would grant immunity from criminal prosecution to any person, firm, company, or corporation who is subject to prosecution under the above assault weapons law for conduct related to an SKS rifle, as defined, committed during a specified period in which there were conflicting administrative designations of that weapon, and would also provide that the designated SKS rifles are not subject to confiscation by law enforcement for violation of the above assault weapon provisions. This bill would make the immunity provisions, as defined, fully retroactive to any person, firm, company, or corporation subject to prosecution or prosecuted and convicted of violating the above provisions. The bill would require the department to notify all district attorneys of the provisions of this bill, on or before January 31, 1999, and would require specified persons in possession of an existing SKS firearms to register or dispose of the firearms on or before ~~June 30, 2000~~ *March 1, 1999. The bill would also require any person authorized to register an SKS rifle pursuant to that provision, or other specified persons, to relinquish the firearm to the department, if at any time before December 31, 2003, funds are appropriated for the state to purchase those firearms. The bill would also require the department to adopt regulations for the purchase program, if funds are appropriated for that purpose.*

Existing law requires any person, firm, or corporation, in possession of an SKS rifle, to register or dispose of the SKS rifle within 18 months of the effective date of the provision.

This bill would make it an offense, punishable either as a felony or a misdemeanor, to violate the above provision.



However, a first-time violation of this provision is punishable as an infraction under specified conditions. By creating a new offense, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 12281 is added to the Penal
2 Code, to read:
3 12281. (a) Any person who, or firm, company, or
4 corporation that, operated a retail or other commercial
5 firm, company, or corporation, and manufactured,
6 distributed, transported, imported, possessed, possessed
7 for sale, offered for sale, or transferred, for commercial
8 purpose, an SKS rifle in California between January 1,
9 1992, and December 19, 1997, shall be immune from
10 criminal prosecution under Section 12280. The immunity
11 provided in this subdivision shall apply retroactively to
12 any person who, or firm, company, or corporation that, is
13 or was charged by complaint or indictment with a
14 violation of Section 12280 for conduct related to an SKS
15 rifle, whether or not the case of that person, firm,
16 company, or corporation is final.
17 (b) Any person who possessed, gave, loaned, or
18 transferred an SKS rifle in California between January 1,
19 1992, and December 19, 1997, shall be immune from
20 criminal prosecution under Section 12280. The immunity
21 provided in this subdivision shall apply retroactively to
22 any person who was charged by complaint or indictment
23 with a violation of Section 12280 for conduct related to an
24 SKS rifle, whether or not the case of that person is final.



1 (c) Any SKS rifle in the possession of any person who,
2 or firm, company, or corporation that, is described in
3 subdivision (a) or (b), shall not be subject to seizure by
4 law enforcement for violation of Section 12280.

5 (d) Any person, firm, company, or corporation,
6 convicted under Section 12280 for conduct relating to an
7 SKS rifle, shall be permitted to withdraw his or her plea
8 of guilty or nolo contendere, or to reopen his or her case
9 and assert the immunities provided in this section, if the
10 court determines that the allowance of the immunity is
11 in the interests of justice. The court shall interpret this
12 section liberally to the benefit of the defendant.

13 (e) The Department of Justice shall notify all district
14 attorneys on or before January 31, 1999, of the provisions
15 of this section. The department shall identify all criminal
16 prosecutions in the state for conduct related to SKS rifles
17 within 90 days of the effective date of this section. In all
18 cases so identified by the Attorney General, the district
19 attorneys shall inform defense counsel, or the defendant
20 if the defendant is in propria persona, in writing, of the
21 provisions of this section within 120 days of the effective
22 date of this section.

23 (f) Any person who, or firm, company, or corporation
24 that is in possession of an SKS rifle shall be permitted and
25 required to register, or otherwise dispose of the SKS rifle,
26 as permitted by Section 12285 on or before June 30, ~~2000~~
27 ~~1999~~. The Department of Justice shall conduct a public
28 education and notification program as described in
29 Section 12289, commencing no later than ~~60 days after the~~
30 ~~decision of the California Supreme Court becomes final.~~
31 ~~March 1, 1999.~~

32 (g) *Notwithstanding subdivision (f), any person who*
33 *is authorized to register an SKS rifle pursuant to*
34 *subdivision (f) shall be required to relinquish the firearm*
35 *to the Department of Justice, in a manner prescribed by*
36 *the department, if at any time before December 31, 2003,*
37 *funds are appropriated for the state to purchase those*
38 *firearms. If funds are appropriated for that purpose, the*
39 *department shall adopt regulations for the purchase*
40 *program. Those regulations shall include, but not be*



1 *limited to, the time period during which those firearms*
2 *shall be relinquished to the department, the manner of*
3 *delivery, the reimbursement to be paid, and the manner*
4 *in which those persons shall be informed of the state*
5 *purchase program. Any person who has obtained title to*
6 *an SKS rifle by bequest or intestate succession shall be*
7 *required to comply with this subdivision unless he or she*
8 *otherwise complies with paragraph (1) of subdivision (b)*
9 *of Section 12285.*

10 ~~(g)~~

11 (h) Notwithstanding paragraph (11) of subdivision
12 (a) of Section 12276, an “SKS rifle” under this section,
13 means all SKS rifles commonly referred to as “SKS
14 Sporter” versions, manufactured to accept a detachable
15 AK-47 magazine and imported into this state ~~or~~ and sold
16 between January 1, 1992, and December 19, 1997.

17 ~~(h)~~

18 (i) A violation of subdivision (f) is a public offense and
19 upon conviction shall be punished by imprisonment in
20 the state prison, or in a county jail, not exceeding one
21 year. However, if the person presents proof that he or she
22 lawfully possessed the SKS rifle prior to the effective date
23 of this section, and has since either registered the firearm
24 and any other lawfully obtained firearm subject to this
25 section pursuant to Section 12285 or relinquished them
26 pursuant to Section 12288, a first-time violation of this
27 subdivision shall be an infraction punishable by a fine of
28 up to five hundred dollars (\$500), but not less than three
29 hundred fifty dollars (\$350), if the person has otherwise
30 possessed the firearm in compliance with subdivision (c)
31 of Section 12285. In these cases, the firearm shall be
32 returned unless the court finds in the interest of public
33 safety, after notice and hearing, that the assault weapon
34 should be destroyed pursuant to Section 12028.

35 SEC. 2. No reimbursement is required by this act
36 pursuant to Section 6 of Article XIII B of the California
37 Constitution because the only costs that may be incurred
38 by a local agency or school district will be incurred
39 because this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty



1 for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition
3 of a crime within the meaning of Section 6 of Article
4 XIII B of the California Constitution.

5 Notwithstanding Section 17580 of the Government
6 Code, unless otherwise specified, the provisions of this act
7 shall become operative on the same date that the act
8 takes effect pursuant to the California Constitution.

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