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AMENDED IN SENATE JUNE 30, 1997

AMENDED IN ASSEMBLY APRIL 21, 1997

AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Keeley

February 24, 1997

An act to amend Sections 12035 and 12071 of, and to add Section 12036 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 491, as amended, Keeley. Firearms: criminal storage.

(1) Existing law establishes the crime of criminal storage which arises when a person keeps any loaded firearm within any premises that is under his or her custody or control and he or she knows or reasonably should know that a child under 14 years of age is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby either (a) causes death or great bodily injury to himself, herself, or any other person, or (b) causes injury, other than great bodily injury, to himself, herself, or any other person, or exhibits the firearm either in a public place or as specified. A violation of (a) is criminal storage in the 1st degree, punishable as either

a misdemeanor or a felony, and a violation of (b) is criminal storage in the 2nd degree, punishable as a misdemeanor.

This bill instead would apply these provisions to a child under 16 years of age. The bill would revise (b) above to apply when the child carries, rather than exhibits, the firearm to a public place or as specified. The bill also would provide that a person who keeps a pistol, revolver, or other firearm capable of being concealed upon the person within any premise that is under his or her custody or control and he or she knows or reasonably should know that a child under the age of 16 years is likely to gain access to that firearm without the permission of the child’s parent or legal guardian and the child obtains access to that firearm and carries it off-premises or injures or kills a person on the premises where access to the firearm was gained, is guilty of a misdemeanor.

The bill also would require a firearms dealer to post a notice on the licensed premises of the duty imposed pursuant to the above provisions. The above provisions would not apply under specified circumstances. Because this bill would create a new crime, it would impose a state-mandated local program.

(2) 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 12035 of the Penal Code is
2 amended to read:

3 12035. (a) As used in this section, the following
4 definitions shall apply:

5 (1) “Locking device” means a device that is designed
6 to prevent the firearm from functioning and when
7 applied to the firearm, renders the firearm inoperable.

8 (2) “Loaded firearm” has the same meaning as set
9 forth in subdivision (g) of Section 12031.



1 (3) “Child” means a person under 16 years of age.

2 (4) “Great bodily injury” has the same meaning as set
3 forth in Section 12022.7.

4 (5) “Locked container” has the same meaning as set
5 forth in subdivision (d) of Section 12026.2.

6 (b) (1) Except as provided in subdivision (c), a
7 person commits the crime of “criminal storage of a
8 firearm of the first degree” if he or she keeps any loaded
9 firearm within any premise which is under his or her
10 custody or control and he or she knows or reasonably
11 should know that a child is likely to gain access to the
12 firearm without the permission of the child’s parent or
13 legal guardian and the child obtains access to the firearm
14 and thereby causes death or great bodily injury to himself,
15 herself, or any other person.

16 (2) Except as provided in subdivision (c), a person
17 commits the crime of “criminal storage of a firearm of the
18 second degree” if he or she keeps any loaded firearm
19 within any premise which is under his or her custody or
20 control and he or she knows or reasonably should know
21 that a child is likely to gain access to the firearm without
22 the permission of the child’s parent or legal guardian and
23 the child obtains access to the firearm and thereby causes
24 injury, other than great bodily injury, to himself, herself,
25 or any other person, or carries the firearm either to a
26 public place or in violation of Section 417.

27 (c) Subdivision (b) shall not apply whenever any of
28 the following occurs:

29 (1) The child obtains the firearm as a result of an illegal
30 entry to any premises by any person.

31 (2) The firearm is kept in a locked container or in a
32 location ~~which~~ *that* a reasonable person would believe to
33 be secure.

34 (3) The firearm is carried on the person or within such
35 a close proximity thereto so that the individual can readily
36 retrieve and use the firearm as if carried on the person.

37 (4) The firearm is locked with a locking device that has
38 rendered the firearm inoperable.

39 (5) The person is a peace officer or a member of the
40 armed forces or national guard and the child obtains the



1 firearm during, or incidental to, the performance of the
2 person's duties.

3 (6) The child obtains, or obtains and discharges, the
4 firearm in a lawful act of self-defense or defense of
5 another person, or persons.

6 (7) The person who keeps a loaded firearm on any
7 premise which is under his or her custody or control has
8 no reasonable expectation, based on objective facts and
9 circumstances, that a child is likely to be present on the
10 premise.

11 ~~(8) The child uses the firearm to commit an offense
12 that results in a finding by the juvenile court that the child
13 is an unfit subject to be dealt with under the juvenile
14 court law and thereby subject to prosecution in an adult
15 court of criminal jurisdiction pursuant to Section 707 of
16 the Welfare and Institutions Code.~~

17 (d) Criminal storage of a firearm is punishable as
18 follows:

19 (1) Criminal storage of a firearm in the first degree, by
20 imprisonment in the state prison for 16 months, or 2 or 3
21 years, by a fine not exceeding ten thousand dollars
22 (\$10,000), or by both that imprisonment and fine; or by
23 imprisonment in a county jail not exceeding one year, by
24 a fine not exceeding one thousand dollars (\$1,000), or by
25 both that imprisonment and fine.

26 (2) Criminal storage of a firearm in the second degree,
27 by imprisonment in a county jail not exceeding one year,
28 by a fine not exceeding one thousand dollars (\$1,000), or
29 by both that imprisonment and fine.

30 (e) If the person who allegedly violated this section is
31 the parent or guardian of a child who is injured or who
32 dies as the result of an accidental shooting, the district
33 attorney shall consider, among other factors, the impact
34 of the injury or death on the person alleged to have
35 violated this section when deciding whether to prosecute
36 an alleged violation. It is the Legislature's intent that a
37 parent or guardian of a child who is injured or who dies
38 as the result of an accidental shooting shall be prosecuted
39 only in those instances in which the parent or guardian
40 behaved in a grossly negligent manner or where similarly



1 egregious circumstances exist. This subdivision shall not
2 otherwise restrict, in any manner, the factors that a
3 district attorney may consider when deciding whether to
4 prosecute alleged violations of this section.

5 (f) If the person who allegedly violated this section is
6 the parent or guardian of a child who is injured or who
7 dies as the result of an accidental shooting, no arrest of the
8 person for the alleged violation of this section shall occur
9 until at least seven days after the date upon which the
10 accidental shooting occurred.

11 In addition to the limitation contained in this
12 subdivision, a law enforcement officer shall consider the
13 health status of a child who suffers great bodily injury as
14 the result of an accidental shooting prior to arresting a
15 person for a violation of this section, if the person to be
16 arrested is the parent or guardian of the injured child.
17 The intent of this subdivision is to encourage law
18 enforcement officials to delay the arrest of a parent or
19 guardian of a seriously injured child while the child
20 remains on life-support equipment or is in a similarly
21 critical medical condition.

22 (g) (1) The fact that the person who allegedly
23 violated this section attended a firearm safety training
24 course prior to the purchase of the firearm that is
25 obtained by a child in violation of this section shall be
26 considered a mitigating factor by a district attorney when
27 he or she is deciding whether to prosecute the alleged
28 violation.

29 (2) In any action or trial commenced under this
30 section, the fact that the person who allegedly violated
31 this section attended a firearm safety training course
32 prior to the purchase of the firearm that is obtained by a
33 child in violation of this section, shall be admissible.

34 (h) Every person licensed under Section 12071 shall
35 post within the licensed premises the notice required by
36 paragraph (7) of subdivision (b) of that section, disclosing
37 the duty imposed by this section upon any person who
38 keeps a loaded firearm.

39 SEC. 2. Section 12036 is added to the Penal Code, to
40 read:



1 12036. (a) As used in this section, the following
2 definitions shall apply:

3 (1) “Locking device” means a device that is designed
4 to prevent the firearm from functioning and when
5 applied to the firearm, renders the firearm inoperable.

6 (2) “Child” means a person under the age of 16 years.

7 (3) “Off-premises” means premises other than the
8 premises where the firearm was stored.

9 (4) “Locked container” has the same meaning as set
10 forth in subdivision (d) of Section 12026.2.

11 (b) A person who keeps a pistol, revolver, or other
12 firearm capable of being concealed upon the person,
13 loaded or unloaded, within any premise that is under his
14 or her custody or control and he or she knows or
15 reasonably should know that a child is likely to gain access
16 to that firearm without the permission of the child’s
17 parent or legal guardian and the child obtains access to
18 that firearm and thereafter carries that firearm
19 off-premises, shall be punished by imprisonment in a
20 county jail not exceeding one year, by a fine not
21 exceeding one thousand dollars (\$1,000), or by both that
22 imprisonment and fine.

23 (c) A pistol, revolver, or other firearm capable of
24 being concealed upon the person that a child gains access
25 to and carries off-premises in violation of this section shall
26 be deemed “used in the commission of any misdemeanor
27 as provided in this code or any felony” for the purpose of
28 subdivision (b) of Section 12028 regarding the authority
29 to confiscate firearms and other deadly weapons as a
30 nuisance.

31 (d) This section shall not apply if any one of the
32 following circumstances exists:

33 (1) The child obtains the pistol, revolver, or other
34 firearm capable of being concealed upon the person as a
35 result of an illegal entry into any premises by any person.

36 (2) The pistol, revolver, or other firearm capable of
37 being concealed upon the person is kept in a locked
38 container *or in a location that a reasonable person would*
39 *believe to be secure.*



1 (3) The pistol, revolver, or other firearm capable of
2 being concealed upon the person is locked with a locking
3 device that has rendered the firearm inoperable.

4 ~~(4) The child uses the firearm to commit an offense~~
5 ~~that results in a finding by the juvenile court that the child~~
6 ~~is an unfit subject to be dealt with under the juvenile~~
7 ~~court law and thereby subject to prosecution in an adult~~
8 ~~court of criminal jurisdiction pursuant to Section 707 of~~
9 ~~the Welfare and Institutions Code.~~

10 ~~(5)~~
11 (4) The pistol, revolver, or other firearm capable of
12 being concealed upon a person is carried on the person
13 within such a close range that the individual can readily
14 retrieve and use the firearm as if carried on the person.

15 ~~(6)~~
16 (5) The person is a peace officer or a member of the
17 armed forces or national guard and the child obtains the
18 pistol, revolver, or other firearm capable of being
19 concealed upon the person during, or incidental to, the
20 performance of the person's duties.

21 ~~(7)~~
22 (6) The child obtains, or obtains and discharges, the
23 pistol, revolver, or other firearm capable of being
24 concealed upon the person in a lawful act of self-defense
25 or defense of another person or persons.

26 ~~(8)~~
27 (7) The person who keeps a pistol, revolver, or other
28 firearm capable of being concealed upon the person has
29 no reasonable expectation, based on objective facts and
30 circumstances, that a child is likely to be present on the
31 premises.

32 (e) *If the person who allegedly violated this section is*
33 *the parent or guardian of a child who is injured or who*
34 *dies as the result of an accidental shooting, the district*
35 *attorney shall consider, among other factors, the impact*
36 *of the injury or death on the person alleged to have*
37 *violated this section when deciding whether to prosecute*
38 *the alleged violation. It is the Legislature's intent that a*
39 *parent or guardian of a child who is injured or who dies*
40 *as the result of an accidental shooting shall be prosecuted*



1 *only in those instances in which the parent or guardian*
2 *behaved in a grossly negligent manner or where similarly*
3 *egregious circumstances exist. This subdivision shall not*
4 *otherwise restrict, in any manner, the factors that a*
5 *district attorney may consider when deciding whether to*
6 *prosecute alleged violations of this section.*

7 *(f) If the person who allegedly violated this section is*
8 *the parent or guardian of a child who is injured or who*
9 *dies as the result of an accidental shooting, no arrest of the*
10 *person for the alleged violation of this section shall occur*
11 *until at least seven days after the date upon which the*
12 *accidental shooting occurred.*

13 *In addition to the limitation contained in this*
14 *subdivision, a law enforcement officer shall consider the*
15 *health status of a child who suffers great bodily injury as*
16 *the result of an accidental shooting prior to arresting a*
17 *person for a violation of this section, if the person to be*
18 *arrested is the parent or guardian of the injured child.*
19 *The intent of this subdivision is to encourage law*
20 *enforcement officials to delay the arrest of a parent or*
21 *guardian of a seriously injured child while the child*
22 *remains on life-support equipment or is in a similarly*
23 *critical medical condition.*

24 *(g) (1) The fact that the person who allegedly*
25 *violated this section attended a firearm safety training*
26 *course prior to the purchase of the firearm that is*
27 *obtained by a child in violation of this section shall be*
28 *considered a mitigating factor by a district attorney when*
29 *he or she is deciding whether to prosecute the alleged*
30 *violation.*

31 *(2) In any action or trial commenced under this*
32 *section, the fact that the person who allegedly violated*
33 *this section attended a firearm safety training course*
34 *prior to the purchase of the firearm that is obtained by a*
35 *child in violation of this section, shall be admissible.*

36 *(h) Every person licensed under Section 12071 shall*
37 *post within the licensed premises the notice required by*
38 *paragraph (7) of subdivision (b) of that section, disclosing*
39 *the duty imposed by this section upon any person who*



1 keeps a pistol, revolver, or other firearm capable of being
2 concealed upon the person.

3 SEC. 3. Section 12071 of the Penal Code is amended
4 to read:

5 12071. (a) (1) As used in this chapter, the term
6 “licensee,” “person licensed pursuant to Section 12071,”
7 or “dealer” means a person who has all of the following:

8 (A) A valid federal firearms license.

9 (B) Any regulatory or business license, or licenses,
10 required by local government.

11 (C) A valid seller’s permit issued by the State Board of
12 Equalization.

13 (D) A certificate of eligibility issued by the
14 Department of Justice pursuant to paragraph (4).

15 (E) A license issued in the format prescribed by
16 paragraph (6).

17 (F) Is among those recorded in the centralized list
18 specified in subdivision (e).

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

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

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

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



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

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

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

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

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

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

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

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

39 A person conducting business pursuant to this
40 subparagraph shall publicly display his or her license



1 issued pursuant to subdivision (a), or a facsimile thereof,
2 at any gun show or event, as specified in this
3 subparagraph.

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

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

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

21 (i) The building designated in the license.

22 (ii) The places specified in subparagraph (B) or (C).

23 (iii) The place of residence of, the fixed place of
24 business of, or on private property owned or lawfully
25 possessed by, the purchaser, transferee, or person being
26 loaned the firearm.

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

30 (3) No firearm shall be delivered:

31 (A) Prior to April 1, 1997, within 15 days of the
32 application to purchase a pistol, revolver, or other firearm
33 capable of being concealed upon the person, or, after
34 notice by the department pursuant to subdivision (d) of
35 Section 12076, within 15 days of the submission to the
36 department of any correction to the application, or within
37 15 days of the submission to the department of any fee
38 required pursuant to subdivision (e) of Section 12076,
39 whichever is later. Prior to April 1, 1997, within 10 days of
40 the application to purchase any firearm that is not a pistol,



1 revolver, or other firearm capable of being concealed
2 upon the person, or, after notice by the department
3 pursuant to subdivision (d) of Section 12076, within 10
4 days of the submission to the department of any
5 correction to the application, or within 10 days of the
6 submission to the department of any fee required
7 pursuant to subdivision (e) of Section 12076, whichever
8 is later. On or after April 1, 1997, within 10 days of the
9 application to purchase, or, after notice by the
10 department pursuant to subdivision (d) of Section 12076,
11 within 10 days of the submission to the department of any
12 correction to the application, or within 10 days of the
13 submission to the department of any fee required
14 pursuant to subdivision (e) of Section 12076, whichever
15 is later.

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

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

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

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

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

33 (6) The licensee shall comply with Sections 12073,
34 12076, and 12077, subdivisions (a) and (b) of Section
35 12072, and subdivision (a) of Section 12316.

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



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

4 (B) "IF YOU KEEP A LOADED FIREARM, OR A
5 FIREARM CONCEALABLE UPON THE PERSON,
6 WITHIN ANY PREMISES UNDER YOUR CUSTODY
7 OR CONTROL, AND A PERSON UNDER 16 GAINS
8 ACCESS TO THE FIREARM, YOU MAY BE GUILTY
9 OF A MISDEMEANOR OR A FELONY, UNLESS YOU
10 STORED THE FIREARM IN A LOCKED CONTAINER,
11 OR LOCKED THE FIREARM WITH A LOCKING
12 DEVICE, TO KEEP IT FROM TEMPORARILY
13 FUNCTIONING."

14 (C) "DISCHARGING FIREARMS IN POORLY
15 VENTILATED AREAS, CLEANING FIREARMS, OR
16 HANDLING AMMUNITION MAY RESULT IN
17 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO
18 CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM,
19 AND OTHER SERIOUS PHYSICAL INJURY. HAVE
20 ADEQUATE VENTILATION AT ALL TIMES. WASH
21 HANDS THOROUGHLY AFTER EXPOSURE."

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

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

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

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

37 (A) All charges required by governmental agencies
38 for processing firearm transfers required by Sections
39 12076, 12082, and 12806.

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

3 (12) The licensee shall not misstate the amount of fees
4 charged by a governmental agency pursuant to Sections
5 12076, 12082, and 12806.

6 (13) The licensee shall report the loss or theft of any
7 firearm that is merchandise of the licensee, any firearm
8 that the licensee takes possession of pursuant to Section
9 12082, or any firearm kept at the licensee's place of
10 business within 48 hours of discovery to the appropriate
11 law enforcement agency in the city, county, or city and
12 county where the licensee's business premises are
13 located.

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

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

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

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

35 (15) The licensing authority in an unincorporated area
36 of a county with a population less than 200,000 persons
37 according to the most recent federal decennial census or
38 within a city with a population of less than 50,000 persons
39 according to the most recent federal decennial census



1 may impose the requirements specified in paragraph
2 (14).

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

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

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

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

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

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

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

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

32 (v) The dealer acquired the firearm from a person
33 who resides outside this state who is licensed pursuant to
34 Chapter 44 (commencing with Section 921) of Title 18 of
35 the United States Code and any regulations issued
36 pursuant thereto.

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

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



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

3 (2) As used in this article, a “basic firearms safety
4 certificate” means a basic firearms certificate issued to
5 the purchaser, transferee, or person being loaned the
6 firearm by the Department of Justice pursuant to Article
7 8 (commencing with Section 12800) of Chapter 6.

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

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

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

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

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

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

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

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

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

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

33 (4) As used in this section, “licensed premises,”
34 “licensed place of business,” “licensee’s place of
35 business,” or “licensee’s business premises” means the
36 building designated in the license.

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

38 (A) A “firearms transaction record” is a record
39 containing the same information referred to in Section



1 178.124a and subdivision (e) of Section 178.125 of Title 27
2 of the Code of Federal Regulations.

3 (B) A licensee shall be in compliance with the
4 provisions of paragraph (17) of subdivision (b) if he or she
5 maintains and makes available for inspection during
6 business hours to any peace officer, authorized local law
7 enforcement employee, or Department of Justice
8 employee designated by the Attorney General, upon the
9 presentation of proper identification, the bound book
10 containing the same information referred to in Section
11 178.124a and subdivision (e) of Section 178.125 of Title 27
12 of the Code of Federal Regulations.

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

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

32 (1) For law enforcement purposes.

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

38 (f) The Department of Justice may inspect dealers to
39 ensure compliance with this article. The department may
40 assess an annual fee, not to exceed eighty-five dollars



1 (\$85), to cover the reasonable cost of maintaining the list
2 described in subdivision (e), including the cost of
3 inspections. Dealers whose place of business is in a
4 jurisdiction that has adopted an inspection program to
5 ensure compliance with firearms law shall be exempt
6 from that portion of the department's fee that relates to
7 the cost of inspections. The applicant is responsible for
8 providing evidence to the department that the
9 jurisdiction in which the business is located has the
10 inspection program.

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

20 (h) Paragraph (14) or (15) of subdivision (b) shall not
21 apply to a licensee organized as a nonprofit public benefit
22 or mutual benefit corporation organized pursuant to Part
23 2 (commencing with Section 5110) or Part 3
24 (commencing with Section 7110) of Division 2 of the
25 Corporations Code, if both of the following conditions are
26 satisfied:

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

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

36 SEC. 4. No reimbursement is required by this act
37 pursuant to Section 6 of Article XIII B of the California
38 Constitution because the only costs that may be incurred
39 by a local agency or school district will be incurred
40 because this act creates a new crime or infraction,



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

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

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