

ASSEMBLY BILL

No. 2011

Introduced by Assembly Member Hertzberg

February 18, 1998

An act to amend Sections 12001, 12025, 12026.2, 12031, 12072, 12077, and 12094 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2011, as introduced, Hertzberg. Firearms: punishment.

(1) Existing law prohibits a person from carrying concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person. Existing law also prohibits a person from carrying a loaded firearm on his or her person or in a vehicle while in any public place or on any public street. These offenses are generally punishable as misdemeanors, but under specified circumstances they are punishable as felonies.

This bill would include among these circumstances the situation where the manufacturer's serial number on the firearm is obliterated, removed, or altered.

This bill also would make the former provision inapplicable to the transportation of a firearm by a person for the purpose of having the Department of Justice assign a distinguishing number or mark of identification to that firearm.

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

(2) Under existing law, any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his or her



possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, changed, altered, removed, or obliterated is guilty of a misdemeanor.

This bill would make it a felony or a misdemeanor for any person to sell or otherwise transfer his or her ownership in a concealable firearm unless the firearm bears either the name of the manufacturer, the manufacturer's make or model, and a manufacturer's serial number, or the identification number or mark assigned to the firearm by the Department of Justice. The bill also would make a conforming change.

By creating a new crime, the bill would impose a state-mandated local program.

(3) Existing law requires firearm dealers to enter specified information concerning firearm transfers into either a register of sales or record of electronic or telephonic transfer.

This bill would require this information to include, with respect to concealable firearms, any identification number or mark assigned to the firearm.

(4) Existing law makes it a misdemeanor for any person with knowledge of any change, alteration, or obliteration to buy, receive, dispose of, sell, or possess any pistol, revolver, or other firearm with changed, altered, or obliterated identification marks.

This bill instead would make this offense punishable as either a misdemeanor or a felony. By increasing the penalty for an existing crime, the bill would impose a state-mandated local program.

(5) 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 12001 of the Penal Code is
2 amended to read:

3 12001. (a) As used in this title, the terms “pistol,”
4 “revolver,” and “firearm capable of being concealed
5 upon the person” shall apply to and include any device
6 designed to be used as a weapon, from which is expelled
7 a projectile by the force of any explosion, or other form
8 of combustion, and which has a barrel less than 16 inches
9 in length. These terms also include any device which has
10 a barrel 16 inches or more in length which is designed to
11 be interchanged with a barrel less than 16 inches in
12 length.

13 (b) As used in this title, “firearm” means any device,
14 designed to be used as a weapon, from which is expelled
15 through a barrel a projectile by the force of any explosion
16 or other form of combustion.

17 (c) As used in Sections 12021, 12021.1, 12070, 12071,
18 12072, 12073, 12078, and 12101 of this code, and Sections
19 8100, 8101, and 8103 of the Welfare and Institutions Code,
20 the term “firearm” includes the frame or receiver of the
21 weapon.

22 (d) For the purposes of Sections 12025 and 12031, the
23 term “firearm” also shall include any rocket, rocket
24 propelled projectile launcher, or similar device
25 containing any explosive or incendiary material whether
26 or not the device is designed for emergency or distress
27 signaling purposes.

28 (e) (1) For purposes of Sections 12070, 12071, and
29 *paragraph (7) of subdivision (a)*, and subdivisions (b),
30 (c), (d), and (f) of Section 12072, the term “firearm” does
31 not include an unloaded firearm which is defined as an
32 “antique firearm” in Section 921(a)(16) of Title 18 of the
33 United States Code.

34 (2) For purposes of Sections 12070, 12071, and
35 subdivisions (b), (c), and (d) of Section 12072, the term
36 “firearm” does not include an unloaded firearm that
37 meets both of the following:



1 (A) It is not a pistol, revolver, or other firearm capable
2 of being concealed upon the person.

3 (B) It is a curio or relic, as defined in Section 178.11 of
4 Title 27 of the Code of Federal Regulations.

5 (f) Nothing shall prevent a device defined as a
6 “pistol,” “revolver,” or “firearm capable of being
7 concealed upon the person” from also being found to be
8 a short-barreled shotgun or a short-barreled rifle, as
9 defined in Section 12020.

10 (g) For purposes of Sections 12551 and 12552, the term
11 “BB device” means any instrument which expels a
12 metallic projectile, such as a BB or a pellet, through the
13 force of air pressure, CO₂ pressure, or spring action, or
14 any spot marker gun.

15 (h) As used in this title, “wholesaler” means any
16 person who is licensed as a dealer pursuant to Chapter 44
17 (commencing with Section 921) of Title 18 of the United
18 States Code and the regulations issued pursuant thereto
19 who sells, transfers, or assigns firearms, or parts of
20 firearms, to persons who are licensed as manufacturers,
21 importers, or gunsmiths pursuant to Chapter 44
22 (commencing with Section 921) of Title 18 of the United
23 States Code, or persons licensed pursuant to Section
24 12071, and includes persons who receive finished parts of
25 firearms and assemble them into completed or partially
26 completed firearms in furtherance of that purpose.

27 “Wholesaler” shall not include a manufacturer,
28 importer, or gunsmith who is licensed to engage in those
29 activities pursuant to Chapter 44 (commencing with
30 Section 921) of Title 18 of the United States Code or a
31 person licensed pursuant to Section 12071 and the
32 regulations issued pursuant thereto. A wholesaler also
33 does not include those persons dealing exclusively in
34 grips, stocks, and other parts of firearms that are not
35 frames or receivers thereof.

36 (i) As used in Section 12071, 12072, or 12084,
37 “application to purchase” means any of the following:

38 (1) The initial completion of the register by the
39 purchaser, transferee, or person being loaned the firearm
40 as required by subdivision (b) of Section 12076.



1 (2) The initial completion of the LEFT by the
2 purchaser, transferee, or person being loaned the firearm
3 as required by subdivision (d) of Section 12084.

4 (3) The initial completion and transmission to the
5 department of the record of electronic or telephonic
6 transfer by the dealer on the purchaser, transferee, or
7 person being loaned the firearm as required by
8 subdivision (c) of Section 12076.

9 (j) For purposes of Section 12023, a firearm shall be
10 deemed to be “loaded” whenever both the firearm and
11 the unexpended ammunition capable of being
12 discharged from the firearm are in the immediate
13 possession of the same person.

14 (k) For purposes of Sections 12021, 12021.1, 12025,
15 12070, 12072, 12073, 12078, and 12101 of this code, and
16 Sections 8100, 8101, and 8103 of the Welfare and
17 Institutions Code, notwithstanding the fact that the term
18 “any firearm” may be used in those sections, each firearm
19 or the frame or receiver of the same shall constitute a
20 distinct and separate offense under those sections.

21 (l) For purposes of Section 12020, a violation of that
22 section as to each firearm, weapon, or device enumerated
23 therein shall constitute a distinct and separate offense.

24 (m) Each application that requires any firearms
25 eligibility determination involving the issuance of any
26 license, permit, or certificate pursuant to this title shall
27 include two copies of the applicant’s fingerprints on
28 forms prescribed by the Department of Justice. One copy
29 of the fingerprints may be submitted to the United States
30 Federal Bureau of Investigation.

31 (n) As used in this chapter, a “personal handgun
32 importer” means an individual who meets all of the
33 following criteria:

34 (1) He or she is not a person licensed pursuant to
35 Section 12071.

36 (2) He or she is not a licensed manufacturer of
37 firearms pursuant to Chapter 44 (commencing with
38 Section 921) of Title 18 of the United States Code.

39 (3) He or she is not a licensed importer of firearms
40 pursuant to Chapter 44 (commencing with Section 921)



1 of Title 18 of the United States Code and the regulations
2 issued pursuant thereto.

3 (4) He or she is the owner of a pistol, revolver, or other
4 firearm capable of being concealed upon the person.

5 (5) He or she acquired that pistol, revolver, or other
6 firearm capable of being concealed upon the person
7 outside of California.

8 (6) He or she moves into this state on or after January
9 1, 1998, as a resident of this state.

10 (7) He or she intends to possess that pistol, revolver, or
11 other firearm capable of being concealed upon the
12 person within this state on or after January 1, 1998.

13 (8) The pistol, revolver, or other firearm capable of
14 being concealed upon the person was not delivered to
15 him or her by a person licensed pursuant to Section 12071
16 who delivered that firearm following the procedures set
17 forth in Section 12071 and subdivision (c) of Section
18 12072.

19 (9) He or she, while a resident of this state, had not
20 previously reported his or her ownership of that pistol,
21 revolver, or other firearm capable of being concealed
22 upon the person to the Department of Justice in a manner
23 prescribed by the department that included information
24 concerning him or her and a description of the firearm.

25 (10) The pistol, revolver, or other firearm capable of
26 being concealed upon the person is not a firearm that is
27 prohibited by subdivision (a) of Section 12020.

28 (11) The pistol, revolver, or other firearm capable of
29 being concealed upon the person is not an assault
30 weapon, as defined in Section 12276.

31 (12) The pistol, revolver, or other firearm capable of
32 being concealed upon the person is not a machinegun, as
33 defined in Section 12200.

34 (13) The person is 18 years of age or older.

35 (o) For purposes of paragraph (6) of subdivision (n):

36 (1) Except as provided in paragraph (2), residency
37 shall be determined in the same manner as is the case for
38 establishing residency pursuant to Section 12505 of the
39 Vehicle Code.



1 (2) In the case of members of the armed forces of the
2 United States, residency shall be deemed to be
3 established when he or she was discharged from active
4 service in this state.

5 SEC. 2. Section 12025 of the Penal Code is amended
6 to read:

7 12025. (a) A person is guilty of carrying a concealed
8 firearm when he or she does any of the following:

9 (1) Carries concealed within any vehicle which is
10 under his or her control or direction any pistol, revolver,
11 or other firearm capable of being concealed upon the
12 person.

13 (2) Carries concealed upon his or her person any
14 pistol, revolver, or other firearm capable of being
15 concealed upon the person.

16 (3) Causes to be carried concealed within any vehicle
17 in which he or she is an occupant any pistol, revolver, or
18 other firearm capable of being concealed upon the
19 person.

20 (b) Carrying a concealed firearm in violation of this
21 section is punishable, as follows:

22 (1) Where the person previously has been convicted
23 of any felony, or of any crime made punishable by this
24 chapter, as a felony.

25 (2) Where the firearm is stolen and the person knew
26 or had reasonable cause to believe that it was stolen, as a
27 felony.

28 (3) *Where the manufacturer's serial number on the*
29 *firearm is obliterated, removed, or altered, as a felony.*

30 (4) Where the person is an active participant in a
31 criminal street gang, as defined in subdivision (a) of
32 Section 186.22, under the Street Terrorism Enforcement
33 and Prevention Act (Chapter 11 (commencing with
34 Section 186.20) of Title 7 of Part 1), as a felony.

35 ~~(4)~~

36 (5) Where the person is not in lawful possession of the
37 firearm, as defined in this section, or the person is within
38 a class of persons prohibited from possessing or acquiring
39 a firearm pursuant to Section 12021 or 12021.1 of this code



1 or Section 8100 or 8103 of the Welfare and Institutions
2 Code, as a felony.

3 ~~(5)~~

4 (6) Where the person has been convicted of a crime
5 against a person or property, or of a narcotics or
6 dangerous drug violation, by imprisonment in the state
7 prison, or by imprisonment in a county jail not to exceed
8 one year, by a fine not to exceed one thousand dollars
9 (\$1,000), or by both that imprisonment and fine.

10 ~~(6)~~

11 (7) In all cases other than those specified in paragraphs
12 (1) to ~~(5)~~ (6), inclusive, as a misdemeanor, punishable by
13 imprisonment in a county jail not to exceed one year, by
14 a fine not to exceed one thousand dollars (\$1,000), or by
15 both that imprisonment and fine.

16 (c) (1) Every person convicted under this section
17 who previously has been convicted of a misdemeanor
18 offense enumerated in Section 12001.6 shall be punished
19 by imprisonment in a county jail for at least three months
20 and not exceeding six months, or, if granted probation, or
21 if the execution or imposition of sentence is suspended, it
22 shall be a condition thereof that he or she be imprisoned
23 in a county jail for at least three months.

24 (2) Every person convicted under this section who has
25 previously been convicted of any felony, or of any crime
26 made punishable by this chapter, if probation is granted,
27 or if the execution or imposition of sentence is suspended,
28 it shall be a condition thereof that he or she be imprisoned
29 in a county jail for not less than three months.

30 (d) The court shall apply the three-month minimum
31 sentence as specified in subdivision (c), except in unusual
32 cases where the interests of justice would best be served
33 by granting probation or suspending the imposition or
34 execution of sentence without the minimum
35 imprisonment required in subdivision (c) or by granting
36 probation or suspending the imposition or execution of
37 sentence with conditions other than those set forth in
38 subdivision (c), in which case, the court shall specify on
39 the record and shall enter on the minutes the



1 circumstances indicating that the interests of justice
2 would best be served by such a disposition.

3 (e) Firearms carried openly in belt holsters are not
4 concealed within the meaning of this section.

5 (f) For purposes of this section, “lawful possession of
6 the firearm” means that the person who has possession or
7 custody of the firearm either owns the firearm or has the
8 permission of the owner or a person who otherwise has
9 apparent authority to possess or have custody of the
10 firearm. A person who takes a firearm without the
11 permission of the owner or without the permission of a
12 person who has custody of the firearm does not have
13 lawful possession of the firearm.

14 SEC. 3. Section 12026.2 of the Penal Code is amended
15 to read:

16 12026.2. (a) Section 12025 does not apply to, or affect,
17 any of the following:

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

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

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

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

37 (5) The transportation of a firearm by a person when
38 going directly to, or coming directly from, a fixed place
39 of business or private residential property for the purpose



1 of the lawful repair or the lawful transfer, sale, or loan of
2 that firearm.

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

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

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

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

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

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

37 (12) The transportation of a firearm by a person when
38 going directly to, or coming directly from, a lawful
39 camping activity for the purpose of having that firearm
40 available for lawful personal protection while at the



1 lawful campsite. This paragraph shall not be construed to
2 override the statutory authority granted to the
3 Department of Parks and Recreation or any other state
4 or local governmental agencies to promulgate rules and
5 regulations governing the administration of parks and
6 campgrounds.

7 (13) The transportation of a firearm by a person in
8 order to comply with subdivision (c) or (i) of Section
9 12078 as it pertains to that firearm.

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

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

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

22 (17) The transportation of a firearm by a person who
23 finds the firearm in order to comply with Article 1
24 (commencing with Section 2080) of Chapter 4 of Division
25 3 of the Civil Code as it pertains to that firearm and if that
26 firearm is being transported to a law enforcement
27 agency, the person gives prior notice to the law
28 enforcement agency that he or she is transporting the
29 firearm to the law enforcement agency.

30 (18) The transportation of a firearm by a person who
31 finds the firearm and is transporting it to a law
32 enforcement agency for disposition according to law, if he
33 or she gives prior notice to the law enforcement agency
34 that he or she is transporting the firearm to the law
35 enforcement agency for disposition according to law.

36 (19) The transportation of a firearm by a person in
37 order to comply with paragraph (2) of subdivision (f) of
38 Section 12072 as it pertains to that firearm.



1 (20) The transportation of a firearm by a person in
2 order to comply with paragraph (3) of subdivision (f) of
3 Section 12072 as it pertains to that firearm.

4 (21) *The transportation of a firearm by a person for the*
5 *purpose of Section 12092 as it pertains to that firearm.*

6 (b) In order for a firearm to be exempted under
7 subdivision (a), while being transported to or from a
8 place, the firearm shall be unloaded, kept in a locked
9 container, as defined in subdivision (d), and the course of
10 travel shall include only those deviations between
11 authorized locations as are reasonably necessary under
12 the circumstances.

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

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

22 SEC. 4. Section 12031 of the Penal Code is amended
23 to read:

24 12031. (a) (1) A person is guilty of carrying a loaded
25 firearm when he or she carries a loaded firearm on his or
26 her person or in a vehicle while in any public place or on
27 any public street in an incorporated city or in any public
28 place or on any public street in a prohibited area of
29 unincorporated territory.

30 (2) Carrying a loaded firearm in violation of this
31 section is punishable, as follows:

32 (A) Where the person previously has been convicted
33 of any felony, or of any crime made punishable by this
34 chapter, as a felony.

35 (B) Where the firearm is stolen and the person knew
36 or had reasonable cause to believe that it was stolen, as a
37 felony.

38 (C) *Where the manufacturer's serial number on the*
39 *firearm is obliterated, removed, or altered, as a felony.*



1 (D) Where the person is an active participant in a
2 criminal street gang, as defined in subdivision (a) of
3 Section 186.22, under the Street Terrorism Enforcement
4 and Prevention Act (Chapter 11 (commencing with
5 Section 18620) of Title 7 of Part 1), as a felony.

6 ~~(D)~~

7 (E) Where the person is not in lawful possession of the
8 firearm, as defined in this section, or is within a class of
9 persons prohibited from possessing or acquiring a firearm
10 pursuant to Section 12021 or 12021.1 of this code or
11 Section 8100 or 8103 of the Welfare and Institutions Code,
12 as a felony.

13 ~~(E)~~

14 (F) Where the person has been convicted of a crime
15 against a person or property, or of a narcotics or
16 dangerous drug violation, by imprisonment in the state
17 prison, or by imprisonment in a county jail not to exceed
18 one year, by a fine not to exceed one thousand dollars
19 (\$1,000), or by both that imprisonment and fine.

20 ~~(F)~~

21 (G) In all cases other than those specified in
22 subparagraphs (A) to ~~(E)~~ (F), inclusive, as a
23 misdemeanor, punishable by imprisonment in a county
24 jail not to exceed one year, by a fine not to exceed one
25 thousand dollars (\$1,000), or by both that imprisonment
26 and fine.

27 ~~(G)~~

28 (H) For purposes of this section, “lawful possession of
29 the firearm” means that the person who has possession or
30 custody of the firearm either owns the firearm or has the
31 permission of the owner or a person who otherwise has
32 apparent authority to possess or have custody of the
33 firearm. A person who takes a firearm without the
34 permission of the owner or without the permission of a
35 person who has custody of the firearm does not have
36 lawful possession of the firearm.

37 (3) Nothing in this section shall preclude prosecution
38 under Sections 12021 and 12021.1 of this code, Section
39 8100 or 8103 of the Welfare and Institutions Code, or any
40 other law with a greater penalty than this section.



1 (4) Notwithstanding paragraphs (2) and (3) of
2 subdivision (a) of Section 836, a peace officer may make
3 an arrest without a warrant:

4 (A) When the person arrested has violated this
5 section, although not in the officer's presence.

6 (B) Whenever the officer has reasonable cause to
7 believe that the person to be arrested has violated this
8 section, whether or not this section has, in fact, been
9 violated.

10 (5) (A) Every person convicted under this section
11 who has previously been convicted of an offense
12 enumerated in Section 12001.6, or of any crime made
13 punishable under this chapter, shall serve a term of at
14 least three months in a county jail, or, if granted
15 probation, or if the execution or imposition of sentence is
16 suspended, it shall be a condition thereof that he or she
17 be imprisoned for a period of at least three months.

18 (B) The court shall apply the three-month minimum
19 sentence except in unusual cases where the interests of
20 justice would best be served by granting probation or
21 suspending the imposition or execution of sentence
22 without the minimum imprisonment required in this
23 subdivision or by granting probation or suspending the
24 imposition or execution of sentence with conditions other
25 than those set forth in this subdivision, in which case, the
26 court shall specify on the record and shall enter on the
27 minutes the circumstances indicating that the interests of
28 justice would best be served by that disposition.

29 (6) A violation of this section which is punished by
30 imprisonment in a county jail not exceeding one year
31 shall not constitute a conviction of a crime punishable by
32 imprisonment for a term exceeding one year for the
33 purposes of determining federal firearms eligibility
34 under Section 922(g)(1) of Title 18 of the United States
35 Code.

36 (b) Subdivision (a) shall not apply to any of the
37 following:

38 (1) Peace officers listed in Section 830.1 or 830.2,
39 whether active or honorably retired, other duly
40 appointed peace officers, honorably retired peace



1 officers listed in subdivision (c) of Section 830.5, other
2 honorably retired peace officers who during the course
3 and scope of their employment as peace officers were
4 authorized to, and did, carry firearms, full-time paid
5 peace officers of other states and the federal government
6 who are carrying out official duties while in California, or
7 any person summoned by any of those officers to assist in
8 making arrests or preserving the peace while the person
9 is actually engaged in assisting that officer. Any peace
10 officer described in this paragraph who has been
11 honorably retired shall be issued an identification
12 certificate by the law enforcement agency from which
13 the officer has retired. The issuing agency may charge a
14 fee necessary to cover any reasonable expenses incurred
15 by the agency in issuing certificates pursuant to this
16 paragraph and paragraph (3).

17 Any officer, except an officer listed in Section 830.1,
18 830.2, or subdivision (c) of Section 830.5 who retired prior
19 to January 1, 1981, shall have an endorsement on the
20 identification certificate stating that the issuing agency
21 approves the officer's carrying of a loaded firearm.

22 No endorsement or renewal endorsement issued
23 pursuant to paragraph (2) shall be effective unless it is in
24 the format set forth in subparagraph (D) of paragraph
25 (1) of subdivision (a) of Section 12027, except that any
26 peace officer listed in subdivision (f) of Section 830.2 or
27 in subdivision (c) of Section 830.5, who is retired between
28 January 2, 1981, and on or before December 31, 1988, and
29 who is authorized to carry a loaded firearm pursuant to
30 this section, shall not be required to have an endorsement
31 in the format set forth in subparagraph (D) of paragraph
32 (1) of subdivision (a) of Section 12027 until the time of the
33 issuance, on or after January 1, 1989, of a renewal
34 endorsement pursuant to paragraph (2).

35 (2) A retired peace officer, except an officer listed in
36 Section 830.1, 830.2, or subdivision (c) of Section 830.5
37 who retired prior to January 1, 1981, shall petition the
38 issuing agency for renewal of his or her privilege to carry
39 a loaded firearm every five years. An honorably retired
40 peace officer listed in Section 830.1 or 830.2 or subdivision



1 (c) of Section 830.5 who retired prior to January 1, 1981,
2 shall not be required to obtain an endorsement from the
3 issuing agency to carry a loaded firearm. The agency from
4 which a peace officer is honorably retired may, upon
5 initial retirement of the peace officer, or at any time
6 subsequent thereto, deny or revoke, for good cause, the
7 retired officer's privilege to carry a loaded firearm. A
8 peace officer who is listed in Section 830.1 or 830.2 or
9 subdivision (c) of Section 830.5 who is retired prior to
10 January 1, 1981, shall have his or her privilege to carry a
11 loaded firearm denied or revoked by having the agency
12 from which the officer retired stamp on the officer's
13 identification certificate "No CCW privilege."

14 (3) An honorably retired peace officer who is listed in
15 subdivision (c) of Section 830.5 and authorized to carry
16 loaded firearms by this subdivision shall meet the training
17 requirements of Section 832 and shall qualify with the
18 firearm at least annually. The individual retired peace
19 officer shall be responsible for maintaining his or her
20 eligibility to carry a loaded firearm. The Department of
21 Justice shall provide subsequent arrest notification
22 pursuant to Section 11105.2 regarding honorably retired
23 peace officers listed in subdivision (c) of Section 830.5 to
24 the agency from which the officer has retired.

25 (4) Members of the military forces of this state or of the
26 United States engaged in the performance of their duties.

27 (5) Persons who are using target ranges for the
28 purpose of practice shooting with a firearm or who are
29 members of shooting clubs while hunting on the premises
30 of those clubs.

31 (6) The carrying of pistols, revolvers, or other firearms
32 capable of being concealed upon the person by persons
33 who are authorized to carry those weapons pursuant to
34 Article 3 (commencing with Section 12050) of Chapter 1
35 of Title 2 of Part 4.

36 (7) Armored vehicle guards, as defined in Section 7521
37 of the Business and Professions Code, (A) if hired prior to
38 January 1, 1977; or (B) if hired on or after that date, if they
39 have received a firearms qualification card from the



1 Department of Consumer Affairs, in each case while
2 acting within the course and scope of their employment.

3 (8) Upon approval of the sheriff of the county in which
4 they reside, honorably retired federal officers or agents of
5 federal law enforcement agencies, including, but not
6 limited to, the Federal Bureau of Investigation, the Secret
7 Service, the United States Customs Service, the Federal
8 Bureau of Alcohol, Tobacco, and Firearms, the Federal
9 Bureau of Narcotics, the Drug Enforcement
10 Administration, the United States Border Patrol, and
11 officers or agents of the Internal Revenue Service who
12 were authorized to carry weapons while on duty, who
13 were assigned to duty within the state for a period of not
14 less than one year, or who retired from active service in
15 the state.

16 Retired federal officers or agents shall provide the
17 sheriff with certification from the agency from which
18 they retired certifying their service in the state, the
19 nature of their retirement, and indicating the agency's
20 concurrence that the retired federal officer or agent
21 should be accorded the privilege of carrying a loaded
22 firearm.

23 Upon approval, the sheriff shall issue a permit to the
24 retired federal officer or agent indicating that he or she
25 may carry a loaded firearm in accordance with this
26 paragraph. The permit shall be valid for a period not
27 exceeding five years, shall be carried by the retiree while
28 carrying a loaded firearm, and may be revoked for good
29 cause.

30 The sheriff of the county in which the retired federal
31 officer or agent resides may require recertification prior
32 to a permit renewal, and may suspend the privilege for
33 cause. The sheriff may charge a fee necessary to cover any
34 reasonable expenses incurred by the county.

35 (c) Subdivision (a) shall not apply to any of the
36 following who have completed a regular course in
37 firearms training approved by the Commission on Peace
38 Officer Standards and Training:

39 (1) Patrol special police officers appointed by the
40 police commission of any city, county, or city and county



1 under the express terms of its charter who also, under the
2 express terms of the charter, (A) are subject to suspension
3 or dismissal after a hearing on charges duly filed with the
4 commission after a fair and impartial trial, (B) are not less
5 than 18 years of age or more than 40 years of age, (C)
6 possess physical qualifications prescribed by the
7 commission, and (D) are designated by the police
8 commission as the owners of a certain beat or territory as
9 may be fixed from time to time by the police commission.

10 (2) The carrying of weapons by animal control officers
11 or zookeepers, regularly compensated as such by a
12 governmental agency when acting in the course and
13 scope of their employment and when designated by a
14 local ordinance or, if the governmental agency is not
15 authorized to act by ordinance, by a resolution, either
16 individually or by class, to carry the weapons, or by
17 persons who are authorized to carry the weapons
18 pursuant to Section 14502 of the Corporations Code, while
19 actually engaged in the performance of their duties
20 pursuant to that section.

21 (3) Harbor police officers designated pursuant to
22 Section 663.5 of the Harbors and Navigation Code.

23 (d) Subdivision (a) shall not apply to any of the
24 following who have been issued a certificate pursuant to
25 Section 12033. The certificate shall not be required of any
26 person who is a peace officer, who has completed all
27 training required by law for the exercise of his or her
28 power as a peace officer, and who is employed while not
29 on duty as a peace officer.

30 (1) Guards or messengers of common carriers, banks,
31 and other financial institutions while actually employed
32 in and about the shipment, transportation, or delivery of
33 any money, treasure, bullion, bonds, or other thing of
34 value within this state.

35 (2) Guards of contract carriers operating armored
36 vehicles pursuant to California Highway Patrol and
37 Public Utilities Commission authority (A) if hired prior
38 to January 1, 1977; or (B) if hired on or after January 1,
39 1977, if they have completed a course in the carrying and



1 use of firearms which meets the standards prescribed by
2 the Department of Consumer Affairs.

3 (3) Private investigators and private patrol operators
4 who are licensed pursuant to Chapter 11.5 (commencing
5 with Section 7512) of, and alarm company operators who
6 are licensed pursuant to Chapter 11.6 (commencing with
7 Section 7590) of, Division 3 of the Business and
8 Professions Code, while acting within the course and
9 scope of their employment.

10 (4) Uniformed security guards or night watch persons
11 employed by any public agency, while acting within the
12 scope and course of their employment.

13 (5) Uniformed security guards, regularly employed
14 and compensated in that capacity by persons engaged in
15 any lawful business, and uniformed alarm agents
16 employed by an alarm company operator, while actually
17 engaged in protecting and preserving the property of
18 their employers or on duty or en route to or from their
19 residences or their places of employment, and security
20 guards and alarm agents en route to or from their
21 residences or employer-required range training. Nothing
22 in this paragraph shall be construed to prohibit cities and
23 counties from enacting ordinances requiring alarm
24 agents to register their names.

25 (6) Uniformed employees of private patrol operators
26 and private investigators licensed pursuant to Chapter
27 11.5 (commencing with Section 7512) of Division 3 of the
28 Business and Professions Code, while acting within the
29 course and scope of their employment.

30 (e) In order to determine whether or not a firearm is
31 loaded for the purpose of enforcing this section, peace
32 officers are authorized to examine any firearm carried by
33 anyone on his or her person or in a vehicle while in any
34 public place or on any public street in an incorporated
35 city or prohibited area of an unincorporated territory.
36 Refusal to allow a peace officer to inspect a firearm
37 pursuant to this section constitutes probable cause for
38 arrest for violation of this section.

39 (f) As used in this section, “prohibited area” means
40 any place where it is unlawful to discharge a weapon.



1 (g) A firearm shall be deemed to be loaded for the
2 purposes of this section when there is an unexpended
3 cartridge or shell, consisting of a case that holds a charge
4 of powder and a bullet or shot, in, or attached in any
5 manner to, the firearm, including, but not limited to, in
6 the firing chamber, magazine, or clip thereof attached to
7 the firearm; except that a muzzle-loader firearm shall be
8 deemed to be loaded when it is capped or primed and has
9 a powder charge and ball or shot in the barrel or cylinder.

10 (h) Nothing in this section shall prevent any person
11 engaged in any lawful business, including a nonprofit
12 organization, or any officer, employee, or agent
13 authorized by that person for lawful purposes connected
14 with that business, from having a loaded firearm within
15 the person's place of business, or any person in lawful
16 possession of private property from having a loaded
17 firearm on that property.

18 (i) Nothing in this section shall prevent any person
19 from carrying a loaded firearm in an area within an
20 incorporated city while engaged in hunting, provided
21 that the hunting at that place and time is not prohibited
22 by the city council.

23 (j) (1) Nothing in this section is intended to preclude
24 the carrying of any loaded firearm, under circumstances
25 where it would otherwise be lawful, by a person who
26 reasonably believes that the person or property of himself
27 or herself or of another is in immediate, grave danger and
28 that the carrying of the weapon is necessary for the
29 preservation of that person or property. As used in this
30 subdivision, "immediate" means the brief interval before
31 and after the local law enforcement agency, when
32 reasonably possible, has been notified of the danger and
33 before the arrival of its assistance.

34 (2) A violation of this section is justifiable when a
35 person who possesses a firearm reasonably believes that
36 he or she is in grave danger because of circumstances
37 forming the basis of a current restraining order issued by
38 a court against another person or persons who has or have
39 been found to pose a threat to his or her life or safety. This
40 paragraph may not apply when the circumstances



1 involve a mutual restraining order issued pursuant to
2 Division 10 (commencing with Section 6200) of the
3 Family Code absent a factual finding of a specific threat
4 to the person's life or safety. It is not the intent of the
5 Legislature to limit, restrict, or narrow the application of
6 current statutory or judicial authority to apply this or
7 other justifications to defendants charged with violating
8 Section 12025 or of committing other similar offenses.

9 Upon trial for violating this section, the trier of fact shall
10 determine whether the defendant was acting out of a
11 reasonable belief that he or she was in grave danger.

12 (k) Nothing in this section is intended to preclude the
13 carrying of a loaded firearm by any person while engaged
14 in the act of making or attempting to make a lawful arrest.

15 (l) Nothing in this section shall prevent any person
16 from having a loaded weapon, if it is otherwise lawful, at
17 his or her place of residence, including any temporary
18 residence or campsite.

19 SEC. 5. Section 12072 of the Penal Code is amended
20 to read:

21 12072. (a) (1) No person, corporation, or firm shall
22 knowingly supply, deliver, sell, or give possession or
23 control of a firearm to any person within any of the classes
24 prohibited by Section 12021 or 12021.1.

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

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

33 (B) Subparagraph (A) shall not apply to or affect those
34 circumstances set forth in subdivision (p) of Section
35 12078.

36 (4) No person, corporation, or dealer shall sell, loan, or
37 transfer a firearm to any person whom he or she knows
38 or has cause to believe is not the actual purchaser or
39 transferee of the firearm, or to any person who is not the



1 person actually being loaned the firearm, if the person,
2 corporation, or dealer has either of the following:

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

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

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

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

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

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

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

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

22 (7) *(A) No person shall sell or otherwise transfer his
23 or her ownership in a pistol, revolver, or other firearm
24 capable of being concealed upon the person unless the
25 firearm bears either:*

26 *(i) The name of the manufacturer; the manufacturer's
27 make or model, and a manufacturer's serial number
28 assigned to that firearm.*

29 *(ii) The identification number or mark assigned to the
30 firearm by the Department of Justice pursuant to Section
31 12092.*

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

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



1 (1) Prior to April 1, 1997, within 15 days of the
2 application to purchase a pistol, revolver, or other firearm
3 capable of being concealed upon the person, or, after
4 notice by the department pursuant to subdivision (d) of
5 Section 12076, within 15 days of the submission to the
6 department of any correction to the application, or within
7 15 days of the submission to the department of any fee
8 required pursuant to subdivision (e) of Section 12076,
9 whichever is later. Prior to April 1, 1997, within 10 days of
10 the application to purchase any firearm that is not a pistol,
11 revolver, or other firearm capable of being concealed
12 upon the person, or, after notice by the department
13 pursuant to subdivision (d) of Section 12076, within 10
14 days of the submission to the department of any
15 correction to the application, or within 10 days of the
16 submission to the department of any fee required
17 pursuant to subdivision (e) of Section 12076, whichever
18 is later. On or after April 1, 1997, within 10 days of the
19 application to purchase, or, after notice by the
20 department pursuant to subdivision (d) of Section 12076,
21 within 10 days of the submission to the department of any
22 correction to the application, or within 10 days of the
23 submission to the department of any fee required
24 pursuant to subdivision (e) of Section 12076, whichever
25 is later.

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

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

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

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



1 (d) Where neither party to the transaction holds a
2 dealer's license issued pursuant to Section 12071, the
3 parties to the transaction shall complete the sale, loan, or
4 transfer of that firearm through either of the following:

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

6 (2) A law enforcement agency pursuant to Section
7 12084.

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

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

14 (2) Knowingly grading the examination falsely.

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

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

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

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

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

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

29 (f) (1) No person who is licensed pursuant to Chapter
30 44 (commencing with Section 921) of Title 18 of the
31 United States Code shall deliver, sell, or transfer a firearm
32 to a person who is licensed pursuant to Chapter 44
33 (commencing with Section 921) of Title 18 of the United
34 States Code and whose licensed premises are located in
35 this state unless one of the following conditions is met:

36 (A) The person presents proof of licensure pursuant to
37 Section 12071 to that person.

38 (B) The person presents proof that he or she is exempt
39 from licensure under Section 12071 to that person, in
40 which case the person also shall present proof that the



1 transaction is also exempt from the provisions of
2 subdivision (d).

3 (2) (A) On or after January 1, 1998, within 60 days of
4 bringing a pistol, revolver, or other firearm capable of
5 being concealed upon the person into this state, a
6 personal handgun importer shall do one of the following:

7 (i) Forward by prepaid mail or deliver in person to the
8 Department of Justice, a report prescribed by the
9 department including information concerning that
10 individual and a description of the firearm in question.

11 (ii) Sell or transfer the firearm in accordance with the
12 provisions of subdivision (d) or in accordance with the
13 provisions of an exemption from subdivision (d).

14 (iii) Sell or transfer the firearm to a dealer licensed
15 pursuant to Section 12071.

16 (iv) Sell or transfer the firearm to a sheriff or police
17 department.

18 (B) If the personal handgun importer sells or transfers
19 the pistol, revolver, or other firearm capable of being
20 concealed upon the person pursuant to subdivision (d) of
21 Section 12072 and the sale or transfer cannot be
22 completed by the dealer to the purchaser or transferee,
23 and the firearm can be returned to the personal handgun
24 importer, the personal handgun importer shall have
25 complied with the provisions of this paragraph.

26 (C) The provisions of this paragraph are cumulative
27 and shall not be construed as restricting the application
28 of any other law. However, an act or omission punishable
29 in different ways by this section and different provisions
30 of the Penal Code shall not be punished under more than
31 one provision.

32 (D) (i) On and after January 1, 1998, the department
33 shall conduct a public education and notification program
34 regarding this paragraph to ensure a high degree of
35 publicity of the provisions of this paragraph.

36 (ii) As part of the public education and notification
37 program described in this subparagraph, the department
38 shall do all of the following:

39 (I) Work in conjunction with the Department of
40 Motor Vehicles to ensure that any person who is subject



1 to this paragraph is advised of the provisions of this
2 paragraph, and provided with blank copies of the report
3 described in clause (i) of subparagraph (A) at the time
4 that person applies for a California driver’s license or
5 registers his or her motor vehicle in accordance with the
6 Vehicle Code.

7 (II) Make the reports referred to in clause (i) of
8 subparagraph (A) available to dealers licensed pursuant
9 to Section 12071.

10 (III) Make the reports referred to in clause (i) of
11 subparagraph (A) available to law enforcement agencies.

12 (IV) Make persons subject to the provisions of this
13 paragraph aware of the fact that reports referred to in
14 clause (i) of subparagraph (A) may be completed at
15 either the licensed premises of dealers licensed pursuant
16 to Section 12071 or at law enforcement agencies, that it
17 is advisable to do so for the sake of accuracy and
18 completeness of the reports, that prior to transporting a
19 pistol, revolver, or other firearm capable of being
20 concealed upon the person to a law enforcement agency
21 in order to comply with subparagraph (A), the person
22 should give prior notice to the law enforcement agency
23 that he or she is doing so, and that in any event, the pistol,
24 revolver, or other firearm capable of being concealed
25 upon the person should be transported unloaded and in
26 a locked container.

27 (iii) Any costs incurred by the department to
28 implement this paragraph shall be absorbed by the
29 department within its existing budget and the fees in the
30 Dealers’ Record of Sale Special Account allocated for
31 implementation of this subparagraph pursuant to Section
32 12076.

33 (3) Where a person who is licensed as a collector
34 pursuant to Chapter 44 (commencing with Section 921)
35 of Title 18 of the United States Code and the regulations
36 issued pursuant thereto, whose licensed premises are
37 within this state, acquires a pistol, revolver, or other
38 firearm capable of being concealed upon the person that
39 is a curio or relic, as defined in Section 178.11 of Title 27
40 of the Code of Federal Regulations, outside of this state,



1 takes actual possession of that firearm outside of this state
2 pursuant to the provisions of subsection (j) of Section 923
3 of Title 18 of the United States Code, as amended by
4 Public Law 104-208, and transports that firearm into this
5 state, within five days of that licensed collector
6 transporting that firearm into this state, he or she shall
7 report to the department in a format prescribed by the
8 department his or her acquisition of that firearm.

9 (4) (A) It is the intent of the Legislature that a
10 violation of paragraph (2) or (3) shall not constitute a
11 “continuing offense” and the statute of limitations for
12 commencing a prosecution for a violation of paragraph
13 (2) or (3) commences on the date that the applicable
14 grace period specified in paragraph (2) or (3) expires.

15 (B) Paragraphs (2) and (3) shall not apply to a person
16 who reports his or her ownership of a pistol, revolver, or
17 other firearm capable of being concealed upon the
18 person after the applicable grace period specified in
19 paragraph (2) or (3) expires if evidence of that violation
20 arises only as the result of the person submitting the
21 report described in paragraph (2) or (3).

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

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

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

29 (B) If the defendant has a prior conviction of violating
30 this section or former Section 12100 of this code or Section
31 8101 of the Welfare and Institutions Code.

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

36 (D) If the defendant is in a prohibited class described
37 in Section 12021 or 12021.1 of this code or Section 8100 or
38 8103 of the Welfare and Institutions Code.



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

4 (F) A violation of subdivision (b) involving the
5 delivery of any firearm to a person who the dealer knows,
6 or should know, is a minor.

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

12 (A) A violation of paragraph (2), (4), (5), or (7) of
13 subdivision (a).

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

18 ~~(C) A violation of paragraph (4) of subdivision (a).~~

19 ~~(D) A violation of paragraph (5) of subdivision (a).~~

20 ~~(E) A violation of subdivision (b) involving the~~
21 ~~delivery of a pistol, revolver, or other firearm capable of~~
22 ~~being concealed upon the person.~~

23 ~~(F)~~

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

27 ~~(G)~~

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

31 ~~(H)~~

32 (F) A violation of subdivision (e).

33 (4) If both of the following circumstances apply, an
34 additional term of imprisonment in the state prison for
35 one, two, or three years shall be imposed in addition and
36 consecutive to the sentence prescribed.

37 (A) A violation of paragraph (2) of subdivision (a) or
38 subdivision (b).

39 (B) The firearm transferred in violation of paragraph
40 (2) of subdivision (a) or subdivision (b) is used in the



1 subsequent commission of a felony for which a conviction
2 is obtained and the prescribed sentence is imposed.

3 SEC. 6. Section 12077 of the Penal Code is amended
4 to read:

5 12077. (a) The Department of Justice shall prescribe
6 the form of the register and the record of electronic or
7 telephonic transfer pursuant to Section 12074.

8 (b) For pistols, revolvers, and other firearms capable
9 of being concealed upon the person, information
10 contained in the register or record of electronic or
11 telephonic transfer shall be the date and time of sale,
12 make of firearm, peace officer exemption status pursuant
13 to subdivision (a) of Section 12078 and the agency name,
14 dealer waiting period exemption pursuant to subdivision
15 (n) of Section 12078, dangerous weapons permitholder
16 waiting period exemption pursuant to subdivision (r) of
17 Section 12078, curio and relic waiting period exemption
18 pursuant to subdivision (t) of Section 12078, California
19 Firearms Dealer number issued pursuant to Section
20 12071, purchaser's basic firearms safety certificate
21 number issued pursuant to Sections 12805 and 12809,
22 manufacturer's name if stamped on the firearm, model
23 name or number, if stamped on the firearm, if applicable,
24 serial number, other number (if more than one serial
25 number is stamped on the firearm), *any identification*
26 *number or mark assigned to the firearm pursuant to*
27 *Section 12092*, caliber, type of firearm, if the firearm is
28 new or used, barrel length, color of the firearm, full name
29 of purchaser, purchaser's complete date of birth,
30 purchaser's local address, if current address is temporary,
31 complete permanent address of purchaser, identification
32 of purchaser, purchaser's place of birth (state or
33 country), purchaser's complete telephone number,
34 purchaser's occupation, purchaser's sex, purchaser's
35 physical description, all legal names and aliases ever used
36 by the purchaser, yes or no answer to questions that
37 prohibit purchase including, but not limited to,
38 conviction of a felony as described in Section 12021 or an
39 offense described in Section 12021.1, the purchaser's
40 status as a person described in Section 8100 of the Welfare



1 and Institutions Code, whether the purchaser is a person
2 who has been adjudicated by a court to be a danger to
3 others or found not guilty by reason of insanity, whether
4 the purchaser is a person who has been found
5 incompetent to stand trial or placed under
6 conservatorship by a court pursuant to Section 8103 of the
7 Welfare and Institutions Code, signature of purchaser,
8 signature of salesperson (as a witness to the purchaser's
9 signature), name and complete address of the dealer or
10 firm selling the firearm as shown on the dealer's license,
11 the establishment number, if assigned, the dealer's
12 complete business telephone number, any information
13 required by Section 12082, and a statement of the
14 penalties for any person signing a fictitious name or
15 address or for knowingly furnishing any incorrect
16 information or for knowingly omitting any information
17 required to be provided for the register.

18 (c) For firearms other than pistols, revolvers, or other
19 firearms capable of being concealed upon the person,
20 information contained in the register or record of
21 electronic or telephonic transfer shall be the date and
22 time of sale, peace officer exemption status pursuant to
23 subdivision (a) of Section 12078 and the agency name,
24 auction or event waiting period exemption pursuant to
25 subdivision (g) of Section 12078, California Firearms
26 Dealer number issued pursuant to Section 12071,
27 dangerous weapons permit holder waiting period
28 exemption pursuant to subdivision (r) of Section 12078,
29 full name of purchaser, purchaser's complete date of
30 birth, purchaser's local address, if current address is
31 temporary, complete permanent address of purchaser,
32 identification of purchaser, purchaser's place of birth
33 (state or country), purchaser's complete telephone
34 number, purchaser's occupation, purchaser's sex,
35 purchaser's physical description, all legal names and
36 aliases ever used by the purchaser, yes or no answer to
37 questions that prohibit purchase, including, but not
38 limited to, conviction of a felony as described in Section
39 12021 or an offense described in Section 12021.1, the
40 purchaser's status as a person described in Section 8100 of



1 the Welfare and Institutions Code, whether the
2 purchaser is a person who has been adjudicated by a court
3 to be a danger to others or found not guilty by reason of
4 insanity, whether the purchaser is a person who has been
5 found incompetent to stand trial or placed under
6 conservatorship by a court pursuant to Section 8103 of the
7 Welfare and Institutions Code, signature of purchaser,
8 signature of salesperson (as a witness to the purchaser's
9 signature), name and complete address of the dealer or
10 firm selling the firearm as shown on the dealer's license,
11 the establishment number, if assigned, the dealer's
12 complete business telephone number, any information
13 required by Section 12082, and a statement of the
14 penalties for any person signing a fictitious name or
15 address or for knowingly furnishing any incorrect
16 information or for knowingly omitting any information
17 required to be provided for the register.

18 (d) Where the register is used, the following shall
19 apply:

20 (1) Dealers shall use ink to complete each document.

21 (2) The dealer or salesperson making a sale shall
22 ensure that all information is provided legibly. The dealer
23 and salespersons shall be informed that incomplete or
24 illegible information will delay sales.

25 (3) Each dealer shall be provided instructions
26 regarding the procedure for completion of the form and
27 routing of the form. Dealers shall comply with these
28 instructions which shall include the information set forth
29 in this subdivision.

30 (4) One firearm transaction shall be reported on each
31 record of sale document. For purposes of this subdivision,
32 a "transaction" means a single sale, loan, or transfer of any
33 number of firearms that are not pistols, revolvers, or other
34 firearms capable of being concealed upon the person.

35 (e) The dealer or salesperson making a sale shall
36 ensure that all required information has been obtained
37 from the purchaser. The dealer and all salespersons shall
38 be informed that incomplete information will delay sales.

39 (f) As used in this section, the following definitions
40 shall control:

1 (1) “Purchaser” means the purchaser or transferee of
 2 a firearm or the person being loaned a firearm.

3 (2) “Purchase” means the purchase, loan, or transfer
 4 of a firearm.

5 (3) “Sale” means the sale, loan, or transfer of a firearm.

6 SEC. 7. Section 12094 of the Penal Code is amended
 7 to read:

8 12094. (a) Any person with knowledge of any
 9 change, alteration, removal, or obliteration described
 10 herein, who buys, receives, disposes of, sells, offers for
 11 sale, or has in his or her possession any pistol, revolver, or
 12 other firearm which has had the name of the maker,
 13 model, or the manufacturer’s number or other mark of
 14 identification including any distinguishing number or
 15 mark assigned by the Department of Justice changed,
 16 altered, removed, or obliterated—~~is guilty of a~~
 17 ~~misdemeanor~~ *shall be punished by imprisonment in a*
 18 *county jail not exceeding one year or in the state prison.*

19 (b) Subdivision (a) does not apply to any of the
 20 following:

21 (1) The acquisition or possession of a firearm
 22 described in subdivision (a) by any member of the
 23 military forces of the this state or of the United States,
 24 while on duty and acting within the scope and course of
 25 his or her employment.

26 (2) The acquisition or possession of a firearm
 27 described in subdivision (a) by any peace officer
 28 described in Chapter 4.5 (commencing with Section 830)
 29 of Title 3 of Part 2, while on duty and acting within the
 30 scope and course of his or her employment.

31 (3) The acquisition or possession of a firearm
 32 described in subdivision (a) by any employee of a forensic
 33 laboratory, while on duty and acting within the scope and
 34 course of his or her employment.

35 (4) The possession and disposition of a firearm
 36 described in subdivision (a) by a person who meets, all of
 37 the following:

38 (A) He or she is not prohibited from possessing
 39 firearms or ammunition pursuant to Section 12021 or
 40 12021.1 or paragraph (1) of subdivision (b) of Section



1 12316 of this code, or Section 8100 or 8103 of the Welfare
2 and Institutions Code.

3 (B) The person possessed the firearm no longer than
4 was necessary to deliver the same to a law enforcement
5 agency for that agency's disposition according to law.

6 (C) If the person is transporting the firearm, he or she
7 is transporting the firearm to a law enforcement agency
8 in order to deliver the firearm to the law enforcement
9 agency for the agency's disposition according to law.

10 (D) If the person is transporting the firearm to a law
11 enforcement agency, he or she has given prior notice to
12 the law enforcement agency that he or she is transporting
13 the firearm to that law enforcement agency for that
14 agency's disposition according to law.

15 (E) The firearm is transported in a locked container as
16 defined in subdivision (d) of Section 12026.2.

17 SEC. 8. No reimbursement is required by this act
18 pursuant to Section 6 of Article XIII B of the California
19 Constitution because the only costs that may be incurred
20 by a local agency or school district will be incurred
21 because this act creates a new crime or infraction,
22 eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition
25 of a crime within the meaning of Section 6 of Article
26 XIII B of the California Constitution.

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

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