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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2022

Introduced by Assembly Member Wright
(Principal coauthor: Assembly Member Cardoza)

February 18, 1998

An act to amend Sections 12050, 12051, 12053, and 12054 of, and to add Sections 12050.2 and 12052.5 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2022, as amended, R. Wright. Firearms.

(1) Existing law authorizes the sheriff of a county or the chief or other head of a municipal police department of any city or city and county to issue a license to carry a concealed firearm upon proof of specified criteria, including that the person applying is either a resident of the county or a city within the county when application is made to the sheriff, or a resident of the city when application is made to a police chief.

This bill alternatively would authorize the issuance of a license upon proof that the person applying is a resident of, or spends a substantial period of time employed or conducting

business within, the county or a city within the county when application is made to the sheriff. The bill also would require all applicants, including applicants for license renewal, to complete a specified course of training. The bill would prohibit the licensing authority from requiring as part of the license application, or as a condition of licensure, that the applicant provide any liability insurance policy.

Additionally, this bill would require each licensing authority to publish and make available a written policy ~~of the specific criteria implementing~~ *summarizing* these provisions; ~~that are used by that licensing authority for issuing a license, and any specific grounds that would result in the automatic denial of a license by that licensing authority, and to include that criteria.~~ *The bill also would require that any additional policies and procedures used by the licensing authorities to interpret these provisions be published and made available with license applications provided to license applicants. The bill would require the licensing authority to give written notice to the applicant indicating if the application is approved or denied within 90 days of the initial application for ~~anew~~ a new license or a license renewal or 30 days after receipt of the applicant's criminal background check from the Department of Justice, whichever is later. The bill would specify that certain provisions of law granting exemption from liability for an injury caused by the issuance of a license would apply to licensing authorities who issue a license pursuant to these provisions.*

The bill would require the Attorney General to convene a committee to develop a standard application form for licenses. The bill would require the Attorney General to adopt and implement this standard application form for licenses on or before July 1, 1999. The bill would provide that an applicant shall not be required to complete any additional application ~~of or~~ form for a license, or to provide any information other than that necessary to complete the standard application form.

Commencing on or before January 1, 2000, and annually thereafter, the bill would require each licensing authority to submit to the Attorney General the total number of licenses issued to reserve peace officers and judges. The bill would



require the Attorney General to collect and record the information submitted by each licensing authority.

By increasing the duties of local law enforcement entities, the bill would impose a state-mandated local program.

(2) Under existing law, a license to carry a concealed firearm issued pursuant to the provisions described in (1) above is valid for any period of time not to exceed one year from the date of the license.

This bill would extend the validity of a license issued pursuant to the provisions described in (1) above to any period of time not to exceed 3 years. The bill would provide that any license issued pursuant to these provisions shall expire 90 days after the licensee moves from the county of issuance if the licensee's place of residence was the basis for issuance of the license. Additionally, the bill would specify that if the licensee's place of employment or business was the basis for issuance of the license pursuant to these provisions, the license is valid for any period of time not to exceed 90 days, and would impose additional restrictions and requirements upon such a license.

(3) Existing law authorizes the licensing authority to charge a fee not to exceed \$3 for processing an application for a new license or a license renewal or processing an amended license.

This bill instead would authorize the licensing authority to charge a fee in an amount equal to the actual costs for processing an application for a new license or license renewal, excluding fingerprint and training costs, but in no case to exceed \$100, and a fee not to exceed \$10 for processing an amended license. The bill would provide that no requirement charge, assessment, fee, or condition that requires the payment of any additional funds by the applicant may be imposed by any licensing authority as a condition of the application for a license, and would restrict the collection of the fee for processing an application for a new license or license renewal, as specified.

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 12050 of the Penal Code is
2 amended to read:

3 12050. (a) (1) (A) The sheriff of a county, upon
4 proof that the person applying is of good moral character,
5 that good cause exists for the issuance, and that the person
6 applying satisfies any one of the conditions specified in
7 subparagraph (D) and has completed a course of training
8 as described in subparagraph (E), may issue to that
9 person a license to carry a pistol, revolver, or other
10 firearm capable of being concealed upon the person in
11 either one of the following formats:

12 (i) A license to carry concealed a pistol, revolver, or
13 other firearm capable of being concealed upon the
14 person.

15 (ii) Where the population of the county is less than
16 200,000 persons according to the most recent federal
17 decennial census, a license to carry loaded and exposed
18 in that county a pistol, revolver, or other firearm capable
19 of being concealed upon the person.

20 (B) The chief or other head of a municipal police
21 department of any city or city and county, upon proof
22 that the person applying is of good moral character, that
23 good cause exists for the issuance, and that the person
24 applying is a resident of that city and has completed a
25 course of training as described in subparagraph (E), may
26 issue to that person a license to carry a pistol, revolver, or
27 other firearm capable of being concealed upon the
28 person in either one of the following formats:

29 (i) A license to carry concealed a pistol, revolver, or
30 other firearm capable of being concealed upon the
31 person.

32 (ii) Where the population of the county in which the
33 city is located is less than 200,000 persons according to the

1 most recent federal decennial census, a license to carry
2 loaded and exposed in that county a pistol, revolver, or
3 other firearm capable of being concealed upon the
4 person.

5 (C) The sheriff of a county or the chief or other head
6 of a municipal police department of any city or city and
7 county, upon proof that the person applying is of good
8 moral character, that good cause exists for the issuance,
9 and that the person applying is a person who has been
10 deputized or appointed as a peace officer pursuant to
11 subdivision (a) or (b) of Section 830.6 by that sheriff or
12 that chief of police or other head of a municipal police
13 department, may issue to that person a license to carry
14 concealed a pistol, revolver, or other firearm capable of
15 being concealed upon the person. Direct or indirect fees
16 for the issuance of a license pursuant to this subparagraph
17 may be waived. The fact that an applicant for a license to
18 carry a pistol, revolver, or other firearm capable of being
19 concealed upon the person has been deputized or
20 appointed as a peace officer pursuant to subdivision (a)
21 or (b) of Section 830.6 shall be considered only for the
22 purpose of issuing a license pursuant to this
23 subparagraph, and shall not be considered for the
24 purpose of issuing a license pursuant to subparagraph (A)
25 or (B).

26 (D) For the purpose of subparagraph (A), the
27 applicant shall satisfy any one of the following:

28 (i) Resident of the county or a city within the county.

29 (ii) Spends a substantial period of time employed or
30 conducting business within the county or a city within the
31 county.

32 (E) (i) For new license applicants, the course of
33 training may be any course acceptable to the licensing
34 authority, shall not exceed 16 hours, and shall include
35 instruction on at least firearm safety and the law
36 regarding the permissible use of a firearm.

37 (ii) For license renewal applicants, the course of
38 training may be any course acceptable to the licensing
39 authority, shall not exceed four hours, and shall include

1 instruction on at least firearm safety and the law
2 regarding the permissible use of a firearm.

3 (2) (A) (i) Except as otherwise provided in clause
4 (ii) and subparagraph (B) of paragraph (4) of subdivision
5 (f), a license issued pursuant to subparagraph (A) or (B)
6 of paragraph (1) is valid for any period of time not to
7 exceed three years from the date of the license.

8 (ii) If the licensee's place of employment or business
9 was the basis for issuance of the license pursuant to
10 subparagraph (A) of paragraph (1), the license is valid for
11 any period of time not to exceed 90 days from the date of
12 the license. The license shall be valid only in the county
13 in which the license was originally issued and the city,
14 county, or city and county in which the licensee resides.
15 The licensee shall give a copy of this license to the
16 licensing authority of the city, county, or city and county
17 in which he or she resides. The licensing authority that
18 originally issued the license shall inform the licensee
19 verbally and in writing in at least 16-point type of this
20 obligation to give a copy of the license to the licensing
21 authority of the city, county, or city and county of
22 residence. Any application to renew or extend the
23 validity of, or reissue, ~~such~~ a license may be granted only
24 upon the concurrence of the licensing authority that
25 originally issued the license, and the licensing authority
26 of the city, county, or city and county in which the
27 licensee resides.

28 (B) A license issued pursuant to subparagraph (C) of
29 paragraph (1) to a peace officer appointed pursuant to
30 Section 830.6 is valid for any period of time not to exceed
31 three years from the date of the license, except that the
32 license shall be invalid upon the conclusion of the person's
33 appointment pursuant to Section 830.6 if the three-year
34 period has not otherwise expired or any other condition
35 imposed pursuant to this section does not limit the
36 validity of the license to a shorter time period.

37 (3) The licensing authority shall not require as part of
38 the license application, or as a condition of licensure, that
39 the applicant provide any liability insurance policy.

1 (b) A license may include any reasonable restrictions
2 or conditions which the issuing authority deems
3 warranted, including restrictions as to the time, place,
4 manner, and circumstances under which the person may
5 carry a pistol, revolver, or other firearm capable of being
6 concealed upon the person.

7 (c) Any restrictions imposed pursuant to subdivision
8 (b) shall be indicated on any license issued.

9 (d) A license shall not be issued if the Department of
10 Justice determines that the person is within a prohibited
11 class described in Section 12021 or 12021.1 of this code or
12 Section 8100 or 8103 of the Welfare and Institutions Code.

13 (e) (1) The license shall be revoked by the local
14 licensing authority if at any time either the local licensing
15 authority is notified by the Department of Justice that a
16 licensee is within a prohibited class described in Section
17 12021 or 12021.1 of this code or Section 8100 or 8103 of the
18 Welfare and Institutions Code, or the local licensing
19 authority determines that the person is within a
20 prohibited class described in Section 12021 or 12021.1 of
21 this code or Section 8100 or 8103 of the Welfare and
22 Institutions Code.

23 (2) If at any time the Department of Justice
24 determines that a licensee is within a prohibited class
25 described in Section 12021 or 12021.1 of this code or
26 Section 8100 or 8103 of the Welfare and Institutions Code,
27 the department shall immediately notify the local
28 licensing authority of the determination.

29 (3) If the local licensing authority revokes the license,
30 the Department of Justice shall be notified of the
31 revocation pursuant to Section 12053. The licensee shall
32 also be immediately notified of the revocation in writing.

33 (f) (1) A person issued a license pursuant to this
34 section may apply to the licensing authority for an
35 amendment to the license to do one or more of the
36 following:

37 (A) Add or delete authority to carry a particular pistol,
38 revolver, or other firearm capable of being concealed
39 upon the person.

1 (B) Authorize the licensee to carry concealed a pistol,
2 revolver, or other firearm capable of being concealed
3 upon the person.

4 (C) If the population of the county is less than 200,000
5 persons according to the most recent federal decennial
6 census, authorize the licensee to carry loaded and
7 exposed in that county a pistol, revolver, or other firearm
8 capable of being concealed upon the person.

9 (D) Change any restrictions or conditions on the
10 license, including restrictions as to the time, place,
11 manner, and circumstances under which the person may
12 carry a pistol, revolver, or other firearm capable of being
13 concealed upon the person.

14 (2) When the licensee changes his or her address, the
15 license shall be amended to reflect the new address and
16 a new license shall be issued pursuant to paragraph (3).

17 (3) If the licensing authority amends the license, a new
18 license shall be issued to the licensee reflecting the
19 amendments.

20 (4) (A) The licensee shall notify the licensing
21 authority in writing within 10 days of any change in the
22 licensee's place of residence.

23 (B) If the license is one to carry concealed a pistol,
24 revolver, or other firearm capable of being concealed
25 upon the person, then it may not be revoked solely
26 because the licensee changes his or her place of residence
27 to another county if the licensee has not breached any
28 conditions or restrictions set forth in the license or has not
29 fallen into a prohibited class described in Section 12021 or
30 12021.1 of this code or Section 8100 or 8103 of the Welfare
31 and Institutions Code. However, any license issued
32 pursuant to subparagraph (A) or (B) of paragraph (1) of
33 subdivision (a) shall expire 90 days after the licensee
34 moves from the county of issuance if the licensee's place
35 of residence was the basis for issuance of the license.

36 (C) If the license is one to carry loaded and exposed a
37 pistol, revolver, or other firearm capable of being
38 concealed upon the person, the license shall be revoked
39 immediately if the licensee changes his or her place of
40 residence to another county.

1 (5) An amendment to the license does not extend the
2 original expiration date of the license and the license shall
3 be subject to renewal at the same time as if the license had
4 not been amended.

5 (6) An application to amend a license does not
6 constitute an application for renewal of the license.

7 (g) Nothing in this article shall preclude the chief or
8 other head of a municipal police department of any city
9 from entering an agreement with the sheriff of the
10 county in which the city is located for the sheriff to
11 process all applications for licenses, renewals of licenses,
12 and amendments to licenses, pursuant to this article.

13 *(h) Sections 818.4 and 821.2 of the Government Code*
14 *shall apply to any licensing authority issuing a license to*
15 *carry a pistol, revolver, or other firearm capable of being*
16 *concealed upon the person pursuant to this section.*

17 SEC. 2. Section 12050.2 is added to the Penal Code, to
18 read:

19 12050.2. (a) Within three months of the effective
20 date of the act adding this section, each licensing
21 authority shall publish and make available a written
22 policy ~~of the specific criteria implementing summarizing~~
23 ~~the provisions of~~ subparagraphs (A) and (B) of paragraph
24 (1) of subdivision (a) of Section 12050, ~~that are used by~~
25 ~~that licensing authority for issuing a license, and any~~
26 ~~specific grounds that would result in the automatic denial~~
27 ~~of a license by that licensing authority. The licensing~~
28 ~~authority also shall include these criteria within or~~
29 ~~attached to the license applications it provides to license~~
30 ~~applicants.~~

31 *(b) If an issuing agency has any additional policies and*
32 *procedures interpreting the provisions of subparagraphs*
33 *(A) and (B) of paragraph (1) of subdivision (a) of Section*
34 *12050 relating to the potential qualification of the*
35 *applicant, the additional policies and procedures shall*
36 *also be published and made available and included in, or*
37 *attached to, the license application provided to the*
38 *applicant.*

39 SEC. 3. Section 12051 of the Penal Code is amended
40 to read:

1 12051. (a) (1) Applications for licenses shall be filed
2 in writing, signed by the applicant, and shall state the
3 name, occupation, residence and business address of the
4 applicant, his or her age, height, weight, color of eyes and
5 hair, and reason for desiring a license to carry the weapon.
6 Any license issued upon the application shall set forth the
7 foregoing data and shall, in addition, contain a description
8 of the weapon or weapons authorized to be carried,
9 giving the name of the manufacturer, the serial number,
10 and the caliber. The license issued to the licensee may be
11 laminated.

12 (2) Applications for amendments to licenses shall be
13 filed in writing and signed by the applicant, and shall state
14 what type of amendment is sought pursuant to
15 subdivision (f) of Section 12050 and the reason for
16 desiring the amendment.

17 (3) (A) Applications for amendments to licenses,
18 applications for licenses, amendments to licenses, and
19 licenses shall be uniform throughout the state, upon
20 forms to be prescribed by the Attorney General. The
21 Attorney General shall convene a committee composed
22 of one representative of the California State Sheriffs'
23 Association, one representative of the California Police
24 Chiefs' Association, *and* one representative of the
25 ~~Department of Justice, one representative of the National~~
26 ~~Rifle Association, and an attorney experienced in~~
27 ~~litigation regarding the issuance of licenses pursuant to~~
28 ~~this article~~ *Department of Justice* to develop a standard
29 application form for licenses. *The application shall*
30 *include a section summarizing the statutory provisions of*
31 *state law that result in the automatic denial of a license.*
32 The Attorney General shall adopt and implement this
33 standard application form for licenses on or before July 1,
34 1999.

35 (B) The forms shall contain a provision whereby the
36 applicant attests to the truth of statements contained in
37 the application.

38 (C) An applicant shall not be required to complete any
39 additional application or form for a license, or to provide
40 any information other than that necessary to complete

1 the standard application form described in subparagraph
2 (A).

3 (D) The Attorney General may adopt and enforce
4 regulations that are necessary, appropriate, or useful to
5 interpret and implement this paragraph pursuant to
6 Chapter 3.5 (commencing with Section 11340) of Part 1
7 of Division 3 of Title 2 of the Government Code. Pending
8 the adoption of those regulations, the Attorney General
9 may adopt emergency regulations that shall become
10 effective immediately. The adoption of the emergency
11 regulations shall be subject to Chapter 3.5 (commencing
12 with Section 11340) of Part 1 of Division 3 of Title 2 of the
13 Government Code, and the emergency regulations shall
14 only be effective until June 30, 1999, or on the effective
15 date of the regulations adopted by the Attorney General
16 to implement this paragraph, whichever occurs first, at
17 which time the emergency regulations shall be deemed
18 to be repealed.

19 (b) Any person who files an application required by
20 subdivision (a) knowing that statements contained
21 therein are false is guilty of a misdemeanor.

22 (c) Any person who knowingly makes a false
23 statement on the application regarding any of the
24 following shall be guilty of a felony:

25 (1) The denial or revocation of a license, or the denial
26 of an amendment to a license, issued pursuant to Section
27 12050.

28 (2) A criminal conviction.

29 (3) A finding of not guilty by reason of insanity.

30 (4) The use of a controlled substance.

31 (5) A dishonorable discharge from military service.

32 (6) A commitment to a mental institution.

33 (7) A renunciation of United States citizenship.

34 SEC. 4. Section 12052.5 is added to the Penal Code, to
35 read:

36 12052.5. The licensing authority shall give written
37 notice to the applicant indicating if the license is
38 approved or denied within 90 days of the initial
39 application for a new license or a license renewal or 30
40 days after receipt of the applicant's criminal background

1 check from the Department of Justice, whichever is later.
2 ~~The notice shall include the specific reasons for the denial~~
3 ~~of the new license or license renewal, which may include~~
4 ~~the applicant's failure to comply with any of the licensing~~
5 ~~criteria used by that licensing agency.~~

6 SEC. 5. Section 12053 of the Penal Code is amended
7 to read:

8 12053. (a) A record of the following shall be
9 maintained in the office of the licensing authority:

10 (1) The denial of a license.

11 (2) The denial of an amendment to a license.

12 (3) The issuance of a license.

13 (4) The amendment of a license.

14 (5) The revocation of a license.

15 (b) Copies of each of the following shall be filed
16 immediately by the issuing officer or authority with the
17 Department of Justice:

18 (1) The denial of a license.

19 (2) The denial of an amendment to a license.

20 (3) The issuance of a license.

21 (4) The amendment of a license.

22 (5) The revocation of a license.

23 (c) Commencing on or before January 1, 2000, and
24 annually thereafter, each licensing authority shall submit
25 to the Attorney General the total number of licenses
26 issued to peace officers, pursuant to subparagraph (C) of
27 paragraph (1) of subdivision (a) of Section 12050, and to
28 judges, pursuant to subparagraph (A) or (B) of
29 paragraph (1) of subdivision (a) of Section 12050. The
30 Attorney General shall collect and record the information
31 submitted pursuant to this subdivision by county and
32 licensing authority.

33 SEC. 6. Section 12054 of the Penal Code is amended
34 to read:

35 12054. (a) Each applicant for a new license or for the
36 renewal of a license shall pay at the time of filing his or her
37 application a fee determined by the Department of
38 Justice not to exceed the application processing costs of
39 the Department of Justice for the direct costs of
40 furnishing the report required by Section 12052. After the

1 department establishes fees sufficient to reimburse the
2 department for processing costs, fees charged shall
3 increase at a rate not to exceed the legislatively approved
4 annual cost-of-living adjustments for the department's
5 budget. The officer receiving the application and the fee
6 shall transmit the fee, with the fingerprints if required, to
7 the Department of Justice. The licensing authority of any
8 city, city and county, or county may charge an additional
9 fee in an amount equal to the actual costs for processing
10 the application for a new license, excluding fingerprint
11 and training costs, but in no case to exceed one hundred
12 dollars (\$100), and shall transmit the additional fee, if any,
13 to the city, city and county, or county treasury. The first
14 20 percent of this additional local fee may be collected
15 upon filing of the initial application. The balance of the
16 fee shall be collected only upon issuance of the license.

17 (b) In the case of an amended license pursuant to
18 subdivision (f) of Section 12050, the licensing authority of
19 any city, city and county, or county may charge a fee, not
20 to exceed ten dollars (\$10), except that the fee may be
21 increased at a rate not to exceed any increase in the
22 California Consumer Price Index as compiled and
23 reported by the California Department of Industrial
24 Relations, for processing the amended license and shall
25 transmit the fee to the city, city and county, or county
26 treasury.

27 (c) Except as authorized pursuant to subdivisions (a)
28 and (b), no requirement, charge, assessment, fee, or
29 condition that requires the payment of any additional
30 funds by the applicant may be imposed by any licensing
31 authority as a condition of the application for a license.

32 SEC. 7. No reimbursement is required by this act
33 pursuant to Section 6 of Article XIII B of the California
34 Constitution because the only costs that may be incurred
35 by a local agency or school district will be incurred
36 because this act creates a new crime or infraction,
37 eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section
39 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.
3 Notwithstanding Section 17580 of the Government
4 Code, unless otherwise specified, the provisions of this act
5 shall become operative on the same date that the act
6 takes effect pursuant to the California Constitution.

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