

AMENDED IN SENATE MARCH 31, 1997

**SENATE BILL**

**No. 513**

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**Introduced by Senator Hayden**

February 20, 1997

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An act to ~~add Section 12001.1 to~~ amend Sections 12025 and 12031 of, and to add Sections 12001.1 and 12317 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 513, as amended, Hayden. Firearms: sales.

(1) Existing law regulates the sale of firearms and prohibits the sale of certain specified firearms, but does not otherwise limit the number of firearms that a qualified person may purchase.

This bill would make it a misdemeanor for any person to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period, except as specified. By creating a new crime, this bill would impose a state-mandated local program.

(2) *Under existing law, a person who carries a concealed firearm on his or her person or within any vehicle which is under his or her control or direction, or who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street, as specified, is guilty of a misdemeanor, except under specified circumstances where these offenses are punishable as either a misdemeanor or a felony.*

*This bill would provide that a person who violates these provisions under any circumstances other than those specified*

*as a felony is guilty of an offense punishable as either a misdemeanor or a felony. By increasing the punishment of existing crimes, this bill would create a state-mandated local program.*

*(3) Existing law prohibits the sale of specified assault weapons and the sale, importation, or manufacture of certain ammunition, including handgun ammunition designed primarily to penetrate metal or armor.*

*This bill would prohibit the sale of a detachable centerfire magazine containing more than 10 rounds, a detachable pistol magazine containing more than 15 rounds, a detachable shotgun magazine containing more than six shells, or a belt-feeding device designed to hold more than 15 centerfire cartridges. By creating a new crime, this bill would impose a state-mandated local program.*

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

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

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

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

1 SECTION 1. Section 12001.1 is added to the Penal  
 2 Code, to read:  
 3 12001.1. (a) Except as provided in subdivision (c),  
 4 any person who purchases more than one pistol, revolver,  
 5 or other firearm capable of being concealed upon the  
 6 person, as defined in subdivision (a) of Section 12001,  
 7 within any 30-day period is guilty of a misdemeanor.  
 8 (b) The Department of Justice shall deny clearance to  
 9 purchase a pistol, revolver, or other firearm capable of  
 10 being concealed upon the person to any person who,  
 11 within 30 days of the receipt by the department of a  
 12 Dealer Record of Sale application from the person, has  
 13 purchased a pistol, revolver, or other firearm capable of  
 14 being concealed upon the person.



1 (c) Subdivision (a) shall not apply to any of the  
2 following:

3 (1) Any person who is licensed to sell firearms  
4 pursuant to Article 4 (commencing with Section 12070).

5 (2) Any law enforcement agency.

6 (3) Any agency duly authorized to perform law  
7 enforcement duties.

8 (4) Any state or local correctional facility.

9 (5) Any private security company licensed to do  
10 business in California.

11 (6) Any person who is properly identified as a full-time  
12 paid peace officer, as defined in Section 830.1, 830.2, or  
13 subdivision (c) of Section 830.5, and who is authorized to,  
14 and does, carry a firearm during the course and scope of  
15 his or her employment as a peace officer.

16 (7) Any antique firearm, as defined in paragraph (5)  
17 of subdivision (b) of Section 12020.

18 (8) The purchase of firearms in a collector's series or  
19 a bulk purchase from an estate sale.

20 (d) The Department of Justice shall promulgate  
21 regulations for the implementation and approval of  
22 multiple purchases of antique firearms, firearms in a  
23 collector's series, and firearms purchased in bulk from  
24 estate sales.

25 (e) For purposes of this section, "purchase" does not  
26 include the exchange or replacement of a firearm by a  
27 seller for a firearm purchased from that seller by the same  
28 person seeking the exchange or replacement within the  
29 30-day period immediately preceding the date of  
30 exchange or replacement.

31 SEC. 2. *Section 12025 of the Penal Code is amended*  
32 *to read:*

33 12025. (a) A person is guilty of carrying a concealed  
34 firearm when he or she does any of the following:

35 (1) Carries concealed within any vehicle which is  
36 under his or her control or direction any pistol, revolver,  
37 or other firearm capable of being concealed upon the  
38 person.



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

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

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

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

12 (3) Where the person is an active participant in a  
13 criminal street gang, as defined in subdivision (a) of  
14 Section 186.22, under the Street Terrorism Enforcement  
15 and Prevention Act (Chapter 11 (commencing with  
16 Section 186.20) of Title 7 of Part 1), as a felony.

17 (4) Where the person is not in lawful possession of the  
18 firearm, as defined in this section, or the person is within  
19 a class of persons prohibited from possessing or acquiring  
20 a firearm pursuant to Section 12021 or 12021.1 of this code  
21 or Section 8100 or 8103 of the Welfare and Institutions  
22 Code, as a felony.

23 ~~(5) Where the person has been convicted of a crime~~  
24 ~~against a person or property, or of a narcotics or~~  
25 ~~dangerous drug violation~~ *In all cases other than those*  
26 *specified in paragraphs (1) to (4), inclusive, by*  
27 *imprisonment in the state prison, or by imprisonment in*  
28 *a county jail not to exceed one year, by a fine not to*  
29 *exceed one thousand dollars (\$1,000), or by both that*  
30 *imprisonment and fine.*

31 ~~(6) In all cases other than those specified in paragraphs~~  
32 ~~(1) to (5), inclusive, as a misdemeanor, punishable by~~  
33 ~~imprisonment in a county jail not to exceed one year, by~~  
34 ~~a fine not to exceed one thousand dollars (\$1,000), or by~~  
35 ~~both that imprisonment and fine.~~

36 (c) (1) Every person convicted under this section  
37 who previously has been convicted of a misdemeanor  
38 offense enumerated in Section 12001.6 shall be punished  
39 by imprisonment in a county jail for at least three months  
40 and not exceeding six months, or, if granted probation, or



1 if the execution or imposition of sentence is suspended, it  
2 shall be a condition thereof that he or she be imprisoned  
3 in a county jail for at least three months.

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

10 (d) The court shall apply the three-month minimum  
11 sentence as specified in subdivision (c), except in unusual  
12 cases where the interests of justice would best be served  
13 by granting probation or suspending the imposition or  
14 execution of sentence without the minimum  
15 imprisonment required in subdivision (c) or by granting  
16 probation or suspending the imposition or execution of  
17 sentence with conditions other than those set forth in  
18 subdivision (c), in which case, the court shall specify on  
19 the record and shall enter on the minutes the  
20 circumstances indicating that the interests of justice  
21 would best be served by such a disposition.

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

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

33 *SEC. 3. Section 12031 of the Penal Code is amended*  
34 *to read:*

35 12031. (a) (1) A person is guilty of carrying a loaded  
36 firearm when he or she carries a loaded firearm on his or  
37 her person or in a vehicle while in any public place or on  
38 any public street in an incorporated city or in any public  
39 place or on any public street in a prohibited area of  
40 unincorporated territory.



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

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

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

9 (C) Where the person is an active participant in a  
10 criminal street gang, as defined in subdivision (a) of  
11 Section 186.22, under the Street Terrorism Enforcement  
12 and Prevention Act (Chapter 11 (commencing with  
13 Section 18620) of Title 7 of Part 1), as a felony.

14 (D) Where the person is not in lawful possession of the  
15 firearm, as defined in this section, or is within a class of  
16 persons prohibited from possessing or acquiring a firearm  
17 pursuant to Section 12021 or 12021.1 of this code or  
18 Section 8100 or 8103 of the Welfare and Institutions Code,  
19 as a felony.

20 ~~(E) Where the person has been convicted of a crime~~  
21 ~~against a person or property, or of a narcotics or~~  
22 ~~dangerous drug violation~~ *In all cases other than those*  
23 *specified in subparagraphs (A) to (D), inclusive,* by  
24 imprisonment in the state prison, or by imprisonment in  
25 a county jail not to exceed one year, by a fine not to  
26 exceed one thousand dollars (\$1,000), or by both that  
27 imprisonment and fine.

28 ~~(F) In all cases other than those specified in~~  
29 ~~subparagraphs (A) to (E), inclusive, as a misdemeanor,~~  
30 ~~punishable by imprisonment in a county jail not to exceed~~  
31 ~~one year, by a fine not to exceed one thousand dollars~~  
32 ~~(\$1,000), or by both that imprisonment and fine.~~

33 ~~(G)~~ For purposes of this section, “lawful possession of  
34 the firearm” means that the person who has possession or  
35 custody of the firearm either owns the firearm or has the  
36 permission of the owner or a person who otherwise has  
37 apparent authority to possess or have custody of the  
38 firearm. A person who takes a firearm without the  
39 permission of the owner or without the permission of a



1 person who has custody of the firearm does not have  
2 lawful possession of the firearm.

3 (3) Nothing in this section shall preclude prosecution  
4 under Sections 12021 and 12021.1 of this code, Section  
5 8100 or 8103 of the Welfare and Institutions Code, or any  
6 other law with a greater penalty than this section.

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

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

12 (B) Whenever the officer has reasonable cause to  
13 believe that the person to be arrested has violated this  
14 section, whether or not this section has, in fact, been  
15 violated.

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

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

35 (6) A violation of this section which is punished by  
36 imprisonment in a county jail not exceeding one year  
37 shall not constitute a conviction of a crime punishable by  
38 imprisonment for a term exceeding one year for the  
39 purposes of determining federal firearms eligibility



1 under Section 922(g)(1) of Title 18 of the United States  
2 Code.

3 (b) Subdivision (a) shall not apply to any of the  
4 following:

5 (1) Peace officers listed in Section 830.1 or 830.2,  
6 whether active or honorably retired, other duly  
7 appointed peace officers, honorably retired peace  
8 officers listed in subdivision (c) of Section 830.5, other  
9 honorably retired peace officers who during the course  
10 and scope of their employment as peace officers were  
11 authorized to, and did, carry firearms, full-time paid  
12 peace officers of other states and the federal government  
13 who are carrying out official duties while in California, or  
14 any person summoned by any of those officers to assist in  
15 making arrests or preserving the peace while the person  
16 is actually engaged in assisting that officer. Any peace  
17 officer described in this paragraph who has been  
18 honorably retired shall be issued an identification  
19 certificate by the law enforcement agency from which  
20 the officer has retired. The issuing agency may charge a  
21 fee necessary to cover any reasonable expenses incurred  
22 by the agency in issuing certificates pursuant to this  
23 paragraph and paragraph (3).

24 Any officer, except an officer listed in Section 830.1,  
25 830.2, or subdivision (c) of Section 830.5 who retired prior  
26 to January 1, 1981, shall have an endorsement on the  
27 identification certificate stating that the issuing agency  
28 approves the officer's carrying of a loaded firearm.

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



1 issuance, on or after January 1, 1989, of a renewal  
2 endorsement pursuant to paragraph (2).

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

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

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

35 (5) Persons who are using target ranges for the  
36 purpose of practice shooting with a firearm or who are  
37 members of shooting clubs while hunting on the premises  
38 of those clubs.

39 (6) The carrying of pistols, revolvers, or other firearms  
40 capable of being concealed upon the person by persons



1 who are authorized to carry those weapons pursuant to  
2 Article 3 (commencing with Section 12050) of Chapter 1  
3 of Title 2 of Part 4.

4 (7) Armored vehicle guards, as defined in Section 7521  
5 of the Business and Professions Code, (A) if hired prior to  
6 January 1, 1977; or (B) if hired on or after that date, if they  
7 have received a firearms qualification card from the  
8 Department of Consumer Affairs, in each case while  
9 acting within the course and scope of their employment.

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

23 Retired federal officers or agents shall provide the  
24 sheriff with certification from the agency from which  
25 they retired certifying their service in the state, the  
26 nature of their retirement, and indicating the agency's  
27 concurrence that the retired federal officer or agent  
28 should be accorded the privilege of carrying a loaded  
29 firearm.

30 Upon approval, the sheriff shall issue a permit to the  
31 retired federal officer or agent indicating that he or she  
32 may carry a loaded firearm in accordance with this  
33 paragraph. The permit shall be valid for a period not  
34 exceeding five years, shall be carried by the retiree while  
35 carrying a loaded firearm, and may be revoked for good  
36 cause.

37 The sheriff of the county in which the retired federal  
38 officer or agent resides may require recertification prior  
39 to a permit renewal, and may suspend the privilege for



1 cause. The sheriff may charge a fee necessary to cover any  
2 reasonable expenses incurred by the county.

3 (c) Subdivision (a) shall not apply to any of the  
4 following who have completed a regular course in  
5 firearms training approved by the Commission on Peace  
6 Officer Standards and Training:

7 (1) Patrol special police officers appointed by the  
8 police commission of any city, county, or city and county  
9 under the express terms of its charter who also, under the  
10 express terms of the charter, (A) are subject to suspension  
11 or dismissal after a hearing on charges duly filed with the  
12 commission after a fair and impartial trial, (B) are not less  
13 than 18 years of age or more than 40 years of age, (C)  
14 possess physical qualifications prescribed by the  
15 commission, and (D) are designated by the police  
16 commission as the owners of a certain beat or territory as  
17 may be fixed from time to time by the police commission.

18 (2) The carrying of weapons by animal control officers  
19 or zookeepers, regularly compensated as such by a  
20 governmental agency when acting in the course and  
21 scope of their employment and when designated by a  
22 local ordinance or, if the governmental agency is not  
23 authorized to act by ordinance, by a resolution, either  
24 individually or by class, to carry the weapons, or by  
25 persons who are authorized to carry the weapons  
26 pursuant to Section 607f of the Civil Code, while actually  
27 engaged in the performance of their duties pursuant to  
28 that section.

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

31 (d) Subdivision (a) shall not apply to any of the  
32 following who have been issued a certificate pursuant to  
33 Section 12033. The certificate shall not be required of any  
34 person who is a peace officer, who has completed all  
35 training required by law for the exercise of his or her  
36 power as a peace officer, and who is employed while not  
37 on duty as a peace officer.

38 (1) Guards or messengers of common carriers, banks,  
39 and other financial institutions while actually employed  
40 in and about the shipment, transportation, or delivery of



1 any money, treasure, bullion, bonds, or other thing of  
2 value within this state.

3 (2) Guards of contract carriers operating armored  
4 vehicles pursuant to California Highway Patrol and  
5 Public Utilities Commission authority (A) if hired prior  
6 to January 1, 1977; or (B) if hired on or after January 1,  
7 1977, if they have completed a course in the carrying and  
8 use of firearms which meets the standards prescribed by  
9 the Department of Consumer Affairs.

10 (3) Private investigators and private patrol operators  
11 who are licensed pursuant to Chapter 11.5 (commencing  
12 with Section 7512) of, and alarm company operators who  
13 are licensed pursuant to Chapter 11.6 (commencing with  
14 Section 7590) of, Division 3 of the Business and  
15 Professions Code, while acting within the course and  
16 scope of their employment.

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

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

32 (6) Uniformed employees of private patrol operators  
33 and private investigators licensed pursuant to Chapter  
34 11.5 (commencing with Section 7512) of Division 3 of the  
35 Business and Professions Code, while acting within the  
36 course and scope of their employment.

37 (e) In order to determine whether or not a firearm is  
38 loaded for the purpose of enforcing this section, peace  
39 officers are authorized to examine any firearm carried by  
40 anyone on his or her person or in a vehicle while in any



1 public place or on any public street in an incorporated  
2 city or prohibited area of an unincorporated territory.  
3 Refusal to allow a peace officer to inspect a firearm  
4 pursuant to this section constitutes probable cause for  
5 arrest for violation of this section.

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

8 (g) A firearm shall be deemed to be loaded for the  
9 purposes of this section when there is an unexpended  
10 cartridge or shell, consisting of a case which holds a  
11 charge of powder and a bullet or shot, in, or attached in  
12 any manner to, the firearm, including, but not limited to,  
13 in the firing chamber, magazine, or clip thereof attached  
14 to the firearm; except that a muzzle-loader firearm shall  
15 be deemed to be loaded when it is capped or primed and  
16 has a powder charge and ball or shot in the barrel or  
17 cylinder.

18 (h) Nothing in this section shall prevent any person  
19 engaged in any lawful business, including a nonprofit  
20 organization, or any officer, employee, or agent  
21 authorized by that person for lawful purposes connected  
22 with that business, from having a loaded firearm within  
23 the person’s place of business, or any person in lawful  
24 possession of private property from having a loaded  
25 firearm on that property.

26 (i) Nothing in this section shall prevent any person  
27 from carrying a loaded firearm in an area within an  
28 incorporated city while engaged in hunting, provided  
29 that the hunting at that place and time is not prohibited  
30 by the city council.

31 (j) (1) Nothing in this section is intended to preclude  
32 the carrying of any loaded firearm, under circumstances  
33 where it would otherwise be lawful, by a person who  
34 reasonably believes that the person or property of himself  
35 or herself or of another is in immediate, grave danger and  
36 that the carrying of the weapon is necessary for the  
37 preservation of that person or property. As used in this  
38 subdivision, “immediate” means the brief interval before  
39 and after the local law enforcement agency, when



1 reasonably possible, has been notified of the danger and  
2 before the arrival of its assistance.

3 (2) A violation of this section is justifiable when a  
4 person who possesses a firearm reasonably believes that  
5 he or she is in grave danger because of circumstances  
6 forming the basis of a current restraining order issued by  
7 a court against another person or persons who has or have  
8 been found to pose a threat to his or her life or safety. This  
9 paragraph may not apply when the circumstances  
10 involve a mutual restraining order issued pursuant to  
11 Division 10 (commencing with Section 6200) of the  
12 Family Code absent a factual finding of a specific threat  
13 to the person's life or safety. It is not the intent of the  
14 Legislature to limit, restrict, or narrow the application of  
15 current statutory or judicial authority to apply this or  
16 other justifications to defendants charged with violating  
17 Section 12025 or of committing other similar offenses.

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

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

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

28 *SEC. 4. Section 12317 is added to the Penal Code, to*  
29 *read:*

30 *12317. Any person who sells any of the following shall*  
31 *be punished by imprisonment in a county jail not to*  
32 *exceed one year, and by a fine not to exceed one thousand*  
33 *dollars (\$1,000); or by imprisonment in the state prison*  
34 *for 16 months, two or three years, and by a fine not to*  
35 *exceed ten thousand dollars (\$10,000):*

36 (a) *A detachable centerfire magazine containing*  
37 *more than 10 rounds.*

38 (b) *A detachable pistol magazine containing more*  
39 *than 15 rounds.*



1 (c) A detachable shotgun magazine containing more  
2 than six shells.

3 (d) A belt-feeding device designed to hold more than  
4 15 centerfire cartridges.

5 SEC. 5. No reimbursement is required by this act  
6 pursuant to Section 6 of Article XIII B of the California  
7 Constitution because the only costs that may be incurred  
8 by a local agency or school district will be incurred  
9 because this act creates a new crime or infraction,  
10 eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section  
12 17556 of the Government Code, or changes the definition  
13 of a crime within the meaning of Section 6 of Article  
14 XIII B of the California Constitution.

15 Notwithstanding Section 17580 of the Government  
16 Code, unless otherwise specified, the provisions of this act  
17 shall become operative on the same date that the act  
18 takes effect pursuant to the California Constitution.

