

AMENDED IN SENATE JULY 6, 1999
AMENDED IN SENATE JUNE 24, 1999
AMENDED IN SENATE JUNE 15, 1999
AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Scott
(Coauthors: Assembly Members Aroner, Corbett, Cunneen,
Dutra, Jackson, Keeley, Knox, Kuehl, Lempert, Longville,
Reyes, Steinberg, and Wildman)
(Coauthors: Senators Bowen, Chesbro, Ortiz, Schiff, and
Speier)

February 18, 1999

An act to amend Sections ~~12025~~ *11106*, *12025*, and 12031 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 491, as amended, Scott. Firearms.

(1) *Existing law requires the Attorney General to maintain a registry of specified information concerning pistols, revolvers, and other firearms capable of being concealed on the person and to include in the registry specified data provided to the Department of Justice on the Dealers' Record of Sale.*

This bill would require the Attorney General, at the written request of any person listed in the registry as the owner of a

firearm through a Dealers' Record of Sale prior to 1979, to store and keep that record electronically and to provide the person written notice of its compliance with the request.

(2) Existing law generally provides that it is a misdemeanor for any person to carry a concealed firearm. Under specified circumstances, carrying a concealed firearm is punishable as a felony. One of these circumstances includes a person who is not in lawful possession of the firearm. "Lawful possession" is defined to mean a person who owns the firearm or has permission of the owner or a person with apparent authority.

This bill would punish as a misdemeanor or a felony, carrying a concealed firearm if both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are in the immediate possession of the person or are readily accessible, or the firearm is loaded, as defined by law, where the person in possession is not the registered owner of the firearm, as specified. The bill would also redefine the term "lawful possession" to mean one who lawfully owns or has permission of the lawful owner. In addition, the bill would require the district attorney of each county to submit an annual report to the Attorney General consisting of profiles of persons charged with felonies or misdemeanors under this concealable firearm provision. Under the bill, the Attorney General would be required to submit an annual report to the Legislature compiling all of the reports submitted by the district attorneys. By increasing the punishment for a crime and increasing the duties of local officials, this bill would impose a state-mandated local program.

~~(2)~~

(3) Existing law provides that every person 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 in specified circumstances where this offense is punishable as a felony.

This bill would punish as a misdemeanor or a felony, possession of a loaded pistol, revolver, or other firearm capable of being concealed upon the person where the person



in possession is not the registered owner of the firearm, as specified. The bill would also incorporate in this provision the changes described in (1) above regarding the definition of “lawful possession” and the requirement imposed upon the district attorney.

(3)

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 11106 of the Penal Code is*
2 *amended to read:*

3 11106. (a) In order to assist in the investigation of
4 crime, the arrest and prosecution of criminals, and the
5 recovery of lost, stolen, or found property, the Attorney
6 General shall keep and properly file a complete record of
7 all copies of fingerprints, copies of applications for
8 licenses to carry firearms issued pursuant to Section
9 12050, information reported to the Department of Justice
10 pursuant to Section 12053, dealers’ records of sales of
11 firearms, reports provided pursuant to Section 12072 or
12 12078, forms provided pursuant to Section 12084, reports
13 provided pursuant to Section 12071 that are not dealers’

1 records of sales of firearms, and reports of stolen, lost,
2 found, pledged, or pawned property in any city or county
3 of this state, and shall, upon proper application therefor,
4 furnish to the officers mentioned in Section 11105, hard
5 copy printouts of those records as photographic,
6 photostatic, and nonerasable optically stored
7 reproductions.

8 (b) (1) Notwithstanding subdivision (a), the
9 Attorney General shall not retain or compile any
10 information from reports filed pursuant to subdivision (a)
11 of Section 12078 for firearms that are not pistols,
12 revolvers, or other firearms capable of being concealed
13 upon the person, from forms submitted pursuant to
14 Section 12084 for firearms that are not pistols, revolvers,
15 or other firearms capable of being concealed upon the
16 person, or from dealers' records of sales for firearms that
17 are not pistols, revolvers, or other firearms capable of
18 being concealed upon the person. All copies of the forms
19 submitted, or any information received in electronic
20 form, pursuant to Section 12084 for firearms that are not
21 pistols, revolvers, or other firearms capable of being
22 concealed upon the person, or of the dealers' records of
23 sales for firearms that are not pistols, revolvers, or other
24 firearms capable of being concealed upon the person shall
25 be destroyed within five days of the clearance by the
26 Attorney General, unless the purchaser or transferor is
27 ineligible to take possession of the firearm. All copies of
28 the reports filed, or any information received in
29 electronic form, pursuant to subdivision (a) of Section
30 12078 for firearms that are not pistols, revolvers, or other
31 firearms capable of being concealed upon the person shall
32 be destroyed within five days of the receipt by the
33 Attorney General, unless retention is necessary for use in
34 a criminal prosecution.

35 (2) A peace officer, the Attorney General, a
36 Department of Justice employee designated by the
37 Attorney General, or any authorized local law
38 enforcement employee shall not retain or compile any
39 information from a firearms transaction record, as
40 defined in paragraph (5) of subdivision (c) of Section

1 12071, for firearms that are not pistols, revolvers, or other
2 firearms capable of being concealed upon the person
3 unless retention or compilation is necessary for use in a
4 criminal prosecution or in a proceeding to revoke a
5 license issued pursuant to Section 12071.

6 (3) A violation of this subdivision is a misdemeanor.

7 (c) (1) The Attorney General shall permanently keep
8 and properly file and maintain all information reported
9 to the Department of Justice pursuant to Sections 12071,
10 12072, 12078, 12082, and 12084 or any other law, as to
11 pistols, revolvers, or other firearms capable of being
12 concealed upon the person and maintain a registry
13 thereof.

14 (2) The registry shall consist of all of the following:

15 (A) The name, address, identification of, place of birth
16 (state or country), complete telephone number,
17 occupation, sex, description, and all legal names and
18 aliases ever used by the owner or person being loaned the
19 particular pistol, revolver, or other firearm capable of
20 being concealed upon the person as listed on the
21 information provided to the department on the Dealers'
22 Record of Sale, the Law Enforcement Firearms Transfer
23 (LEFT), as defined in Section 12084, or reports made to
24 the department pursuant to Section 12078 or any other
25 law.

26 (B) The name and address of, and other information
27 about, any person (whether a dealer or a private party)
28 from whom the owner acquired or the person being
29 loaned the particular pistol, revolver, or other firearm
30 capable of being concealed upon the person and when
31 the firearm was acquired or loaned as listed on the
32 information provided to the department on the Dealers'
33 Record of Sale, the LEFT, or reports made to the
34 department pursuant to Section 12078 or any other law.

35 (C) Any waiting period exemption applicable to the
36 transaction which resulted in the owner of or the person
37 being loaned the particular pistol, revolver, or other
38 firearm capable of being concealed upon the person
39 acquiring or being loaned that firearm.

1 (D) The manufacturer's name if stamped on the
2 firearm; model name or number if stamped on the
3 firearm; and, if applicable, the serial number, other
4 number (if more than one serial number is stamped on
5 the firearm), caliber, type of firearm, if the firearm is new
6 or used, barrel length, and color of the firearm.

7 (3) Information in the registry referred to in this
8 subdivision shall, upon proper application therefor, be
9 furnished to the officers referred to in Section 11105 or to
10 the person listed in the registry as the owner or person
11 who is listed as being loaned the particular pistol,
12 revolver, or other firearm capable of being concealed
13 upon the person in the form of hard copy printouts of that
14 information as photographic, photostatic, and
15 nonerasable optically stored reproductions.

16 (4) *If any person is listed in the registry as the owner*
17 *of a firearm through a Dealers' Record of Sale prior to*
18 *1979, and the person listed in the registry requests by*
19 *letter that the Attorney General store and keep the*
20 *record electronically, as well as in the record's existing*
21 *photographic, photostatic, or nonerasable optically*
22 *stored form, the Attorney General shall do so within three*
23 *working days of receipt of the request. The Attorney*
24 *General shall, in writing, and as soon as practicable, notify*
25 *the person requesting electronic storage of the record*
26 *that the request has been honored as required by this*
27 *paragraph.*

28 SEC. 2. Section 12025 of the Penal Code is amended
29 to read:

30 12025. (a) A person is guilty of carrying a concealed
31 firearm when he or she does any of the following:

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

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

39 (3) Causes to be carried concealed within any vehicle
40 in which he or she is an occupant any pistol, revolver, or

1 other firearm capable of being concealed upon the
2 person.

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

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

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

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

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

22 (5) Where the person has been convicted of a crime
23 against a person or property, or of a narcotics or
24 dangerous drug violation, by imprisonment in the state
25 prison, or by imprisonment in a county jail not to exceed
26 one year, by a fine not to exceed one thousand dollars
27 (\$1,000), or by both that imprisonment and fine.

28 (6) By imprisonment in the state prison, or by
29 imprisonment in a county jail not to exceed one year, by
30 a fine not to exceed one thousand dollars (\$1,000), or by
31 both that fine and imprisonment if both of the following
32 conditions are met:

33 (A) Both the pistol, revolver, or other firearm capable
34 of being concealed upon the person and the unexpended
35 ammunition capable of being discharged from that
36 firearm are either in the immediate possession of the
37 person or readily accessible to that person, or the pistol,
38 revolver, or other firearm capable of being concealed
39 upon the person is loaded as defined in subdivision (g) of
40 Section 12031.

1 (B) The person is not listed with the Department of
2 Justice pursuant to paragraph (1) of subdivision (c) of
3 Section 11106, as the registered owner of that pistol,
4 revolver, or other firearm capable of being concealed
5 upon the person.

6 (7) In all cases other than those specified in paragraphs
7 (1) to (6), inclusive, by imprisonment in a county jail not
8 to exceed one year, by a fine not to exceed one thousand
9 dollars (\$1,000), or by both that imprisonment and fine.

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

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

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

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

38 (f) For purposes of this section, "lawful possession of
39 the firearm" means that the person who has possession or
40 custody of the firearm either lawfully owns the firearm or

1 has the permission of the lawful owner or a person who
2 otherwise has apparent authority to possess or have
3 custody of the firearm. A person who takes a firearm
4 without the permission of the lawful owner or without the
5 permission of a person who has lawful custody of the
6 firearm does not have lawful possession of the firearm.

7 (g) (1) The district attorney of each county shall
8 submit annually a report on or before June 30, to the
9 Attorney General consisting of profiles by race, age,
10 gender, and ethnicity of any person charged with a felony
11 or a misdemeanor under this section and any other
12 offense charged in the same complaint, indictment, or
13 information.

14 (2) The Attorney General shall submit annually, a
15 report on or before December 31, to the Legislature
16 compiling all of the reports submitted pursuant to
17 paragraph (1).

18 (3) This subdivision shall remain operative until
19 January 1, 2005, and as of that date shall be repealed.

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 12031 of the Penal Code is amended
22 to read:

23 12031. (a) (1) A person is guilty of carrying a loaded
24 firearm when he or she carries a loaded firearm on his or
25 her person or in a vehicle while in any public place or on
26 any public street in an incorporated city or in any public
27 place or on any public street in a prohibited area of
28 unincorporated territory.

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

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

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

37 (C) Where the person is an active participant in a
38 criminal street gang, as defined in subdivision (a) of
39 Section 186.22, under the Street Terrorism Enforcement

1 and Prevention Act (Chapter 11 (commencing with
2 Section 18620) of Title 7 of Part 1), as a felony.

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

9 (E) Where the person has been convicted of a crime
10 against a person or property, or of a narcotics or
11 dangerous drug violation, by imprisonment in the state
12 prison, or by imprisonment in a county jail not to exceed
13 one year, by a fine not to exceed one thousand dollars
14 (\$1,000), or by both that imprisonment and fine.

15 (F) Where the person is not listed with the
16 Department of Justice pursuant to Section 11106, as the
17 registered owner of the pistol, revolver, or other firearm
18 capable of being concealed upon the person, by
19 imprisonment in the state prison, or by imprisonment in
20 a county jail not to exceed one year, or by a fine not to
21 exceed one thousand dollars (\$1,000), or by both that fine
22 and imprisonment.

23 (G) In all cases other than those specified in
24 subparagraphs (A) to (F), inclusive, as a misdemeanor,
25 punishable by imprisonment in a county jail not to exceed
26 one year, by a fine not to exceed one thousand dollars
27 (\$1,000), or by both that imprisonment and fine.

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 lawfully acquired and
31 lawfully owns the firearm or has the permission of the
32 lawful owner or person who otherwise has apparent
33 authority to possess or have custody of the firearm. A
34 person who takes a firearm without the permission of the
35 lawful owner or without the permission of a person who
36 has lawful custody of the firearm does not have lawful
37 possession of the firearm.

38 (3) Nothing in this section shall preclude prosecution
39 under Sections 12021 and 12021.1 of this code, Section



1 8100 or 8103 of the Welfare and Institutions Code, or any
2 other law with a greater penalty than this section.

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

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

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

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

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

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

38 (b) Subdivision (a) shall not apply to any of the
39 following:

1 (1) Peace officers listed in Section 830.1 or 830.2, or
2 subdivision (a) of Section 830.33, whether active or
3 honorably retired, other duly appointed peace officers,
4 honorably retired peace officers listed in subdivision (c)
5 of Section 830.5, other honorably retired peace officers
6 who during the course and scope of their employment as
7 peace officers were authorized to, and did, carry firearms,
8 full-time paid peace officers of other states and the
9 federal government who are carrying out official duties
10 while in California, or any person summoned by any of
11 those officers to assist in making arrests or preserving the
12 peace while the person is actually engaged in assisting
13 that officer. Any peace officer described in this paragraph
14 who has been honorably retired shall be issued an
15 identification certificate by the law enforcement agency
16 from which the officer has retired. The issuing agency
17 may charge a fee necessary to cover any reasonable
18 expenses incurred by the agency in issuing certificates
19 pursuant to this paragraph and paragraph (3).

20 Any officer, except an officer listed in Section 830.1 or
21 830.2, subdivision (a) of Section 830.33, or subdivision (c)
22 of Section 830.5 who retired prior to January 1, 1981, shall
23 have an endorsement on the identification certificate
24 stating that the issuing agency approves the officer's
25 carrying of a loaded firearm.

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

39 (2) A retired peace officer, except an officer listed in
40 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or

1 subdivision (c) of Section 830.5 who retired prior to
 2 January 1, 1981, shall petition the issuing agency for
 3 renewal of his or her privilege to carry a loaded firearm
 4 every five years. An honorably retired peace officer listed
 5 in Section 830.1 or 830.2, subdivision (a) of Section 830.33,
 6 or subdivision (c) of Section 830.5 who retired prior to
 7 January 1, 1981, shall not be required to obtain an
 8 endorsement from the issuing agency to carry a loaded
 9 firearm. The agency from which a peace officer is
 10 honorably retired may, upon initial retirement of the
 11 peace officer, or at any time subsequent thereto, deny or
 12 revoke for good cause the retired officer's privilege to
 13 carry a loaded firearm. A peace officer who is listed in
 14 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or
 15 subdivision (c) of Section 830.5 who is retired prior to
 16 January 1, 1981, shall have his or her privilege to carry a
 17 loaded firearm denied or revoked by having the agency
 18 from which the officer retired stamp on the officer's
 19 identification certificate "No CCW privilege."

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

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

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

37 (6) The carrying of pistols, revolvers, or other firearms
 38 capable of being concealed upon the person by persons
 39 who are authorized to carry those weapons pursuant to

1 Article 3 (commencing with Section 12050) of Chapter 1
2 of Title 2 of Part 4.

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

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

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

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

36 The sheriff of the county in which the retired federal
37 officer or agent resides may require recertification prior
38 to a permit renewal, and may suspend the privilege for
39 cause. The sheriff may charge a fee necessary to cover any
40 reasonable expenses incurred by the county.

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

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

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

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

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

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

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

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

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

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

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

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory.

1 Refusal to allow a peace officer to inspect a firearm
2 pursuant to this section constitutes probable cause for
3 arrest for violation of this section.

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

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

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

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

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

39 (2) A violation of this section is justifiable when a
40 person who possesses a firearm reasonably believes that

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

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

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

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

24 (m) (1) The district attorney of each county shall
25 submit annually a report on or before June 30, to the
26 Attorney General consisting of profiles by race, age,
27 gender, and ethnicity of any person charged with a felony
28 or a misdemeanor under this section and any other
29 offense charged in the same complaint, indictment, or
30 information.

31 (2) The Attorney General shall submit annually, a
32 report on or before December 31, to the Legislature
33 compiling all of the reports submitted pursuant to
34 paragraph (1).

35 (3) This subdivision shall remain operative only until
36 January 1, 2005.

37 ~~SEC. 3.~~

38 *SEC. 4.* No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution for certain costs that may be incurred by a

1 local agency or school district because in that regard this
2 act creates a new crime or infraction, eliminates a crime
3 or infraction, or changes the penalty for a crime or
4 infraction, within the meaning of Section 17556 of the
5 Government Code, or changes the definition of a crime
6 within the meaning of Section 6 of Article XIII B of the
7 California Constitution.

8 However, notwithstanding Section 17610 of the
9 Government Code, if the Commission on State Mandates
10 determines that this act contains other costs mandated by
11 the state, reimbursement to local agencies and school
12 districts for those costs shall be made pursuant to Part 7
13 (commencing with Section 17500) of Division 4 of Title
14 2 of the Government Code. If the statewide cost of the
15 claim for reimbursement does not exceed one million
16 dollars (\$1,000,000), reimbursement shall be made from
17 the State Mandates Claims Fund.

