

AMENDED IN SENATE JULY 12, 1999

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 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. *This bill would allow a law enforcement officer to arrest a person for violating this provision if the officer had probable cause to believe the person was not the registered owner of the firearms and the other elements of this offense exist.* 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.

(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) (2) above regarding the definition of “lawful possession” and the requirement imposed upon the district attorney.~~

(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

1 pursuant to Section 12053, dealers' records of sales of
2 firearms, reports provided pursuant to Section 12072 or
3 12078, forms provided pursuant to Section 12084, reports
4 provided pursuant to Section 12071 that are not dealers'
5 records of sales of firearms, and reports of stolen, lost,
6 found, pledged, or pawned property in any city or county
7 of this state, and shall, upon proper application therefor,
8 furnish to the officers mentioned in Section 11105, hard
9 copy printouts of those records as photographic,
10 photostatic, and nonerasable optically stored
11 reproductions.

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

39 (2) A peace officer, the Attorney General, a
40 Department of Justice employee designated by the

1 Attorney General, or any authorized local law
2 enforcement employee shall not retain or compile any
3 information from a firearms transaction record, as
4 defined in paragraph (5) of subdivision (c) of Section
5 12071, for firearms that are not pistols, revolvers, or other
6 firearms capable of being concealed upon the person
7 unless retention or compilation is necessary for use in a
8 criminal prosecution or in a proceeding to revoke a
9 license issued pursuant to Section 12071.

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

11 (c) (1) The Attorney General shall permanently keep
12 and properly file and maintain all information reported
13 to the Department of Justice pursuant to Sections 12071,
14 12072, 12078, 12082, and 12084 or any other law, as to
15 pistols, revolvers, or other firearms capable of being
16 concealed upon the person and maintain a registry
17 thereof.

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

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

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

39 (C) Any waiting period exemption applicable to the
40 transaction which resulted in the owner of or the person

1 being loaned the particular pistol, revolver, or other
2 firearm capable of being concealed upon the person
3 acquiring or being loaned that firearm.

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

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

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

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.

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

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

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

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

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

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

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

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

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

(A) Both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that

1 firearm are either in the immediate possession of the
2 person or readily accessible to that person, or the pistol,
3 revolver, or other firearm capable of being concealed
4 upon the person is loaded as defined in subdivision (g) of
5 Section 12031.

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

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

15 (c) *A law enforcement officer may arrest a person for*
16 *a violation of paragraph (6) of subdivision (b) if the law*
17 *enforcement officer has probable cause to believe that*
18 *the person is not listed with the Department of Justice*
19 *pursuant to paragraph (1) of subdivision (c) of Section*
20 *11106 as the registered owner of the pistol, revolver, or*
21 *other firearm capable of being concealed upon the*
22 *person, and one or more of the conditions in*
23 *subparagraph (A) of paragraph (6) of subdivision (b) is*
24 *met.*

25 (d) (1) Every person convicted under this section
26 who previously has been convicted of a misdemeanor
27 offense enumerated in Section 12001.6 shall be punished
28 by imprisonment in a county jail for at least three months
29 and not exceeding six months, or, if granted probation, or
30 if the execution or imposition of sentence is suspended, it
31 shall be a condition thereof that he or she be imprisoned
32 in a county jail for at least three months.

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

39 ~~(d)~~

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

~~(e)~~

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

~~(f)~~

(g) For purposes of this section, “lawful possession of the firearm” means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

~~(g)~~

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

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

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

1 SEC. 3. Section 12031 of the Penal Code is amended
2 to read:

3 12031. (a) (1) A person is guilty of carrying a loaded
4 firearm when he or she carries a loaded firearm on his or
5 her person or in a vehicle while in any public place or on
6 any public street in an incorporated city or in any public
7 place or on any public street in a prohibited area of
8 unincorporated territory.

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

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

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

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

22 (D) Where the person is not in lawful possession of the
23 firearm, as defined in this section, or is within a class of
24 persons prohibited from possessing or acquiring a firearm
25 pursuant to Section 12021 or 12021.1 of this code or
26 Section 8100 or 8103 of the Welfare and Institutions Code,
27 as a felony.

28 (E) Where the person has been convicted of a crime
29 against a person or property, or of a narcotics or
30 dangerous drug violation, by imprisonment in the state
31 prison, or by imprisonment in a county jail not to exceed
32 one year, by a fine not to exceed one thousand dollars
33 (\$1,000), or by both that imprisonment and fine.

34 ~~(F) Where the person is not listed with the~~
35 ~~Department of Justice pursuant to Section 11106, as the~~
36 ~~registered owner of the pistol, revolver, or other firearm~~
37 ~~capable of being concealed upon the person, by~~
38 ~~imprisonment in the state prison, or by imprisonment in~~
39 ~~a county jail not to exceed one year, or by a fine not to~~

1 ~~exceed one thousand dollars (\$1,000), or by both that fine~~
2 ~~and imprisonment.~~

3 ~~(G)~~

4 (F) In all cases other than those specified in
5 subparagraphs (A) to (F), inclusive, as a misdemeanor,
6 punishable by imprisonment in a county jail not to exceed
7 one year, by a fine not to exceed one thousand dollars
8 (\$1,000), or by both that imprisonment and fine.

9 ~~(H)~~

10 (G) For purposes of this section, “lawful possession of
11 the firearm” means that the person who has possession or
12 custody of the firearm either lawfully acquired and
13 lawfully owns the firearm or has the permission of the
14 lawful owner or person who otherwise has apparent
15 authority to possess or have custody of the firearm. A
16 person who takes a firearm without the permission of the
17 lawful owner or without the permission of a person who
18 has lawful custody of the firearm does not have lawful
19 possession of the firearm.

20 (3) Nothing in this section shall preclude prosecution
21 under Sections 12021 and 12021.1 of this code, Section
22 8100 or 8103 of the Welfare and Institutions Code, or any
23 other law with a greater penalty than this section.

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

27 (A) When the person arrested has violated this
28 section, although not in the officer’s presence.

29 (B) Whenever the officer has reasonable cause to
30 believe that the person to be arrested has violated this
31 section, whether or not this section has, in fact, been
32 violated.

33 (5) (A) Every person convicted under this section
34 who has previously been convicted of an offense
35 enumerated in Section 12001.6, or of any crime made
36 punishable under this chapter, shall serve a term of at
37 least three months in a county jail, or, if granted probation
38 or if the execution or imposition of sentence is suspended,
39 it shall be a condition thereof that he or she be imprisoned
40 for a period of at least three months.

1 (B) The court shall apply the three-month minimum
2 sentence except in unusual cases where the interests of
3 justice would best be served by granting probation or
4 suspending the imposition or execution of sentence
5 without the minimum imprisonment required in this
6 subdivision or by granting probation or suspending the
7 imposition or execution of sentence with conditions other
8 than those set forth in this subdivision, in which case, the
9 court shall specify on the record and shall enter on the
10 minutes the circumstances indicating that the interests of
11 justice would best be served by that disposition.

12 (6) A violation of this section which is punished by
13 imprisonment in a county jail not exceeding one year
14 shall not constitute a conviction of a crime punishable by
15 imprisonment for a term exceeding one year for the
16 purposes of determining federal firearms eligibility
17 under Section 922(g)(1) of Title 18 of the United States
18 Code.

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

21 (1) Peace officers listed in Section 830.1 or 830.2, or
22 subdivision (a) of Section 830.33, whether active or
23 honorably retired, other duly appointed peace officers,
24 honorably retired peace officers listed in subdivision (c)
25 of Section 830.5, other honorably retired peace officers
26 who during the course and scope of their employment as
27 peace officers were authorized to, and did, carry firearms,
28 full-time paid peace officers of other states and the
29 federal government who are carrying out official duties
30 while in California, or any person summoned by any of
31 those officers to assist in making arrests or preserving the
32 peace while the person is actually engaged in assisting
33 that officer. Any peace officer described in this paragraph
34 who has been honorably retired shall be issued an
35 identification certificate by the law enforcement agency
36 from which the officer has retired. The issuing agency
37 may charge a fee necessary to cover any reasonable
38 expenses incurred by the agency in issuing certificates
39 pursuant to this paragraph and paragraph (3).



1 Any officer, except an officer listed in Section 830.1 or
2 830.2, subdivision (a) of Section 830.33, or subdivision (c)
3 of Section 830.5 who retired prior to January 1, 1981, shall
4 have an endorsement on the identification certificate
5 stating that the issuing agency approves the officer's
6 carrying of a loaded firearm.

7 No endorsement or renewal endorsement issued
8 pursuant to paragraph (2) shall be effective unless it is in
9 the format set forth in subparagraph (D) of paragraph
10 (1) of subdivision (a) of Section 12027, except that any
11 peace officer listed in subdivision (f) of Section 830.2 or
12 in subdivision (c) of Section 830.5, who is retired between
13 January 2, 1981, and on or before December 31, 1988, and
14 who is authorized to carry a loaded firearm pursuant to
15 this section, shall not be required to have an endorsement
16 in the format set forth in subparagraph (D) of paragraph
17 (1) of subdivision (a) of Section 12027 until the time of the
18 issuance, on or after January 1, 1989, of a renewal
19 endorsement pursuant to paragraph (2).

20 (2) A retired peace officer, except an officer listed in
21 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or
22 subdivision (c) of Section 830.5 who retired prior to
23 January 1, 1981, shall petition the issuing agency for
24 renewal of his or her privilege to carry a loaded firearm
25 every five years. An honorably retired peace officer listed
26 in Section 830.1 or 830.2, subdivision (a) of Section 830.33,
27 or subdivision (c) of Section 830.5 who retired prior to
28 January 1, 1981, shall not be required to obtain an
29 endorsement from the issuing agency to carry a loaded
30 firearm. The agency from which a peace officer is
31 honorably retired may, upon initial retirement of the
32 peace officer, or at any time subsequent thereto, deny or
33 revoke for good cause the retired officer's privilege to
34 carry a loaded firearm. A peace officer who is listed in
35 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or
36 subdivision (c) of Section 830.5 who is retired prior to
37 January 1, 1981, shall have his or her privilege to carry a
38 loaded firearm denied or revoked by having the agency
39 from which the officer retired stamp on the officer's
40 identification certificate "No CCW privilege."

1 (3) An honorably retired peace officer who is listed in
2 subdivision (c) of Section 830.5 and authorized to carry
3 loaded firearms by this subdivision shall meet the training
4 requirements of Section 832 and shall qualify with the
5 firearm at least annually. The individual retired peace
6 officer shall be responsible for maintaining his or her
7 eligibility to carry a loaded firearm. The Department of
8 Justice shall provide subsequent arrest notification
9 pursuant to Section 11105.2 regarding honorably retired
10 peace officers listed in subdivision (c) of Section 830.5 to
11 the agency from which the officer has retired.

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

14 (5) Persons who are using target ranges for the
15 purpose of practice shooting with a firearm or who are
16 members of shooting clubs while hunting on the premises
17 of those clubs.

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

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

29 (8) Upon approval of the sheriff of the county in which
30 they reside, honorably retired federal officers or agents of
31 federal law enforcement agencies, including, but not
32 limited to, the Federal Bureau of Investigation, the Secret
33 Service, the United States Customs Service, the Federal
34 Bureau of Alcohol, Tobacco, and Firearms, the Federal
35 Bureau of Narcotics, the Drug Enforcement
36 Administration, the United States Border Patrol, and
37 officers or agents of the Internal Revenue Service who
38 were authorized to carry weapons while on duty, who
39 were assigned to duty within the state for a period of not

1 less than one year, or who retired from active service in
2 the state.

3 Retired federal officers or agents shall provide the
4 sheriff with certification from the agency from which
5 they retired certifying their service in the state, the
6 nature of their retirement, and indicating the agency's
7 concurrence that the retired federal officer or agent
8 should be accorded the privilege of carrying a loaded
9 firearm.

10 Upon approval, the sheriff shall issue a permit to the
11 retired federal officer or agent indicating that he or she
12 may carry a loaded firearm in accordance with this
13 paragraph. The permit shall be valid for a period not
14 exceeding five years, shall be carried by the retiree while
15 carrying a loaded firearm, and may be revoked for good
16 cause.

17 The sheriff of the county in which the retired federal
18 officer or agent resides may require recertification prior
19 to a permit renewal, and may suspend the privilege for
20 cause. The sheriff may charge a fee necessary to cover any
21 reasonable expenses incurred by the county.

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

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

37 (2) The carrying of weapons by animal control officers
38 or zookeepers, regularly compensated as such by a
39 governmental agency when acting in the course and
40 scope of their employment and when designated by a

1 local ordinance or, if the governmental agency is not
2 authorized to act by ordinance, by a resolution, either
3 individually or by class, to carry the weapons, or by
4 persons who are authorized to carry the weapons
5 pursuant to Section 14502 of the Corporations Code, while
6 actually engaged in the performance of their duties
7 pursuant to that section.

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

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

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

22 (2) Guards of contract carriers operating armored
23 vehicles pursuant to California Highway Patrol and
24 Public Utilities Commission authority (A) if hired prior
25 to January 1, 1977, or (B) if hired on or after January 1,
26 1977, if they have completed a course in the carrying and
27 use of firearms which meets the standards prescribed by
28 the Department of Consumer Affairs.

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

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

39 (5) Uniformed security guards, regularly employed
40 and compensated in that capacity by persons engaged in

1 any lawful business, and uniformed alarm agents
2 employed by an alarm company operator, while actually
3 engaged in protecting and preserving the property of
4 their employers or on duty or en route to or from their
5 residences or their places of employment, and security
6 guards and alarm agents en route to or from their
7 residences or employer-required range training. Nothing
8 in this paragraph shall be construed to prohibit cities and
9 counties from enacting ordinances requiring alarm
10 agents to register their names.

11 (6) Uniformed employees of private patrol operators
12 and private investigators licensed pursuant to Chapter
13 11.5 (commencing with Section 7512) of Division 3 of the
14 Business and Professions Code, while acting within the
15 course and scope of their employment.

16 (e) In order to determine whether or not a firearm is
17 loaded for the purpose of enforcing this section, peace
18 officers are authorized to examine any firearm carried by
19 anyone on his or her person or in a vehicle while in any
20 public place or on any public street in an incorporated
21 city or prohibited area of an unincorporated territory.
22 Refusal to allow a peace officer to inspect a firearm
23 pursuant to this section constitutes probable cause for
24 arrest for violation of this section.

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

27 (g) A firearm shall be deemed to be loaded for the
28 purposes of this section when there is an unexpended
29 cartridge or shell, consisting of a case that holds a charge
30 of powder and a bullet or shot, in, or attached in any
31 manner to, the firearm, including, but not limited to, in
32 the firing chamber, magazine, or clip thereof attached to
33 the firearm; except that a muzzle-loader firearm shall be
34 deemed to be loaded when it is capped or primed and has
35 a powder charge and ball or shot in the barrel or cylinder.

36 (h) Nothing in this section shall prevent any person
37 engaged in any lawful business, including a nonprofit
38 organization, or any officer, employee, or agent
39 authorized by that person for lawful purposes connected
40 with that business, from having a loaded firearm within

1 the person's place of business, or any person in lawful
2 possession of private property from having a loaded
3 firearm on that property.

4 (i) Nothing in this section shall prevent any person
5 from carrying a loaded firearm in an area within an
6 incorporated city while engaged in hunting, provided
7 that the hunting at that place and time is not prohibited
8 by the city council.

9 (j) (1) Nothing in this section is intended to preclude
10 the carrying of any loaded firearm, under circumstances
11 where it would otherwise be lawful, by a person who
12 reasonably believes that the person or property of himself
13 or herself or of another is in immediate, grave danger and
14 that the carrying of the weapon is necessary for the
15 preservation of that person or property. As used in this
16 subdivision, "immediate" means the brief interval before
17 and after the local law enforcement agency, when
18 reasonably possible, has been notified of the danger and
19 before the arrival of its assistance.

20 (2) A violation of this section is justifiable when a
21 person who possesses a firearm reasonably believes that
22 he or she is in grave danger because of circumstances
23 forming the basis of a current restraining order issued by
24 a court against another person or persons who has or have
25 been found to pose a threat to his or her life or safety. This
26 paragraph may not apply when the circumstances
27 involve a mutual restraining order issued pursuant to
28 Division 10 (commencing with Section 6200) of the
29 Family Code absent a factual finding of a specific threat
30 to the person's life or safety. It is not the intent of the
31 Legislature to limit, restrict, or narrow the application of
32 current statutory or judicial authority to apply this or
33 other justifications to defendants charged with violating
34 Section 12025 or of committing other similar offenses.

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

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

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

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

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

16 (3) This subdivision shall remain operative only until
17 January 1, 2005.

18 SEC. 4. No reimbursement is required by this act
19 pursuant to Section 6 of Article XIII B of the California
20 Constitution for certain costs that may be incurred by a
21 local agency or school district because in that regard this
22 act creates a new crime or infraction, eliminates a crime
23 or infraction, or changes the penalty for a crime or
24 infraction, within the meaning of Section 17556 of the
25 Government Code, or changes the definition of a crime
26 within the meaning of Section 6 of Article XIII B of the
27 California Constitution.

28 However, notwithstanding Section 17610 of the
29 Government Code, if the Commission on State Mandates
30 determines that this act contains other costs mandated by
31 the state, reimbursement to local agencies and school
32 districts for those costs shall be made pursuant to Part 7
33 (commencing with Section 17500) of Division 4 of Title
34 2 of the Government Code. If the statewide cost of the
35 claim for reimbursement does not exceed one million
36 dollars (\$1,000,000), reimbursement shall be made from
37 the State Mandates Claims Fund.