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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

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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~~ *peace* 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 allow a peace 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 incorporate in this provision the changes described in (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:



1 11106. (a) In order to assist in the investigation of  
2 crime, the arrest and prosecution of criminals, and the  
3 recovery of lost, stolen, or found property, the Attorney  
4 General shall keep and properly file a complete record of  
5 all copies of fingerprints, copies of applications for  
6 licenses to carry firearms issued pursuant to Section  
7 12050, information reported to the Department of Justice  
8 pursuant to Section 12053, dealers' records of sales of  
9 firearms, reports provided pursuant to Section 12072 or  
10 12078, forms provided pursuant to Section 12084, reports  
11 provided pursuant to Section 12071 that are not dealers'  
12 records of sales of firearms, and reports of stolen, lost,  
13 found, pledged, or pawned property in any city or county  
14 of this state, and shall, upon proper application therefor,  
15 furnish to the officers mentioned in Section 11105, hard  
16 copy printouts of those records as photographic,  
17 photostatic, and nonerasable optically stored  
18 reproductions.

19 (b) (1) Notwithstanding subdivision (a), the  
20 Attorney General shall not retain or compile any  
21 information from reports filed pursuant to subdivision (a)  
22 of Section 12078 for firearms that are not pistols,  
23 revolvers, or other firearms capable of being concealed  
24 upon the person, from forms submitted pursuant to  
25 Section 12084 for firearms that are not pistols, revolvers,  
26 or other firearms capable of being concealed upon the  
27 person, or from dealers' records of sales for firearms that  
28 are not pistols, revolvers, or other firearms capable of  
29 being concealed upon the person. All copies of the forms  
30 submitted, or any information received in electronic  
31 form, pursuant to Section 12084 for firearms that are not  
32 pistols, revolvers, or other firearms capable of being  
33 concealed upon the person, or of the dealers' records of  
34 sales 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 clearance by the  
37 Attorney General, unless the purchaser or transferor is  
38 ineligible to take possession of the firearm. All copies of  
39 the reports filed, or any information received in  
40 electronic form, pursuant to subdivision (a) of Section

1 12078 for firearms that are not pistols, revolvers, or other  
2 firearms capable of being concealed upon the person shall  
3 be destroyed within five days of the receipt by the  
4 Attorney General, unless retention is necessary for use in  
5 a criminal prosecution.

6 (2) A peace officer, the Attorney General, a  
7 Department of Justice employee designated by the  
8 Attorney General, or any authorized local law  
9 enforcement employee shall not retain or compile any  
10 information from a firearms transaction record, as  
11 defined in paragraph (5) of subdivision (c) of Section  
12 12071, for firearms that are not pistols, revolvers, or other  
13 firearms capable of being concealed upon the person  
14 unless retention or compilation is necessary for use in a  
15 criminal prosecution or in a proceeding to revoke a  
16 license issued pursuant to Section 12071.

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

18 (c) (1) The Attorney General shall permanently keep  
19 and properly file and maintain all information reported  
20 to the Department of Justice pursuant to Sections 12071,  
21 12072, 12078, 12082, and 12084 or any other law, as to  
22 pistols, revolvers, or other firearms capable of being  
23 concealed upon the person and maintain a registry  
24 thereof.

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

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

37 (B) The name and address of, and other information  
38 about, any person (whether a dealer or a private party)  
39 from whom the owner acquired or the person being  
40 loaned the particular pistol, revolver, or other firearm

1 capable of being concealed upon the person and when  
2 the firearm was acquired or loaned as listed on the  
3 information provided to the department on the Dealers'  
4 Record of Sale, the LEFT, or reports made to the  
5 department pursuant to Section 12078 or any other law.

6 (C) Any waiting period exemption applicable to the  
7 transaction which resulted in the owner of or the person  
8 being loaned the particular pistol, revolver, or other  
9 firearm capable of being concealed upon the person  
10 acquiring or being loaned that firearm.

11 (D) The manufacturer's name if stamped on the  
12 firearm; model name or number if stamped on the  
13 firearm; and, if applicable, the serial number, other  
14 number (if more than one serial number is stamped on  
15 the firearm), caliber, type of firearm, if the firearm is new  
16 or used, barrel length, and color of the firearm.

17 (3) Information in the registry referred to in this  
18 subdivision shall, upon proper application therefor, be  
19 furnished to the officers referred to in Section 11105 or to  
20 the person listed in the registry as the owner or person  
21 who is listed as being loaned the particular pistol,  
22 revolver, or other firearm capable of being concealed  
23 upon the person in the form of hard copy printouts of that  
24 information as photographic, photostatic, and  
25 nonerasable optically stored reproductions.

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

38 SEC. 2. Section 12025 of the Penal Code is amended  
39 to read:

1 12025. (a) A person is guilty of carrying a concealed  
2 firearm when he or she does any of the following:

3 (1) Carries concealed within any vehicle which is  
4 under his or her control or direction any pistol, revolver,  
5 or other firearm capable of being concealed upon the  
6 person.

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

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

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

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

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

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

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

33 (5) Where the person has been convicted of a crime  
34 against a person or property, or of a narcotics or  
35 dangerous drug violation, by imprisonment in the state  
36 prison, or by imprisonment in a county jail not to exceed  
37 one year, by a fine not to exceed one thousand dollars  
38 (\$1,000), or by both that imprisonment and fine.

39 (6) By imprisonment in the state prison, or by  
40 imprisonment in a county jail not to exceed one year, by

1 a fine not to exceed one thousand dollars (\$1,000), or by  
2 both that fine and imprisonment if both of the following  
3 conditions are met:

4 (A) Both the pistol, revolver, or other firearm capable  
5 of being concealed upon the person and the unexpended  
6 ammunition capable of being discharged from that  
7 firearm are either in the immediate possession of the  
8 person or readily accessible to that person, or the pistol,  
9 revolver, or other firearm capable of being concealed  
10 upon the person is loaded as defined in subdivision (g) of  
11 Section 12031.

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

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

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

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

39 (2) Every person convicted under this section who has  
40 previously been convicted of any felony, or of any crime



1 made punishable by this chapter, if probation is granted,  
2 or if the execution or imposition of sentence is suspended,  
3 it shall be a condition thereof that he or she be imprisoned  
4 in a county jail for not less than three months.

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

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

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

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

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

39 (3) This subdivision shall remain operative until  
40 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 both that fine*  
2 *and imprisonment.*

3 ~~(F)~~

4 (G) 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 ~~(G)~~

10 (3) 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)~~

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

25 ~~(4)~~

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

29 ~~(A)~~

30 (i) When the person arrested has violated this section,  
31 although not in the officer’s presence.

32 ~~(B)~~

33 (ii) Whenever the officer has reasonable cause to  
34 believe that the person to be arrested has violated this  
35 section, whether or not this section has, in fact, been  
36 violated.

37 (B) *A peace officer may arrest a person for a violation*  
38 *of subparagraph (F) of paragraph (2), if the peace officer*  
39 *has probable cause to believe that the person is carrying*  
40 *a loaded pistol, revolver, or other firearm capable of*

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

7 ~~(5)~~

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

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

27 ~~(6)~~

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

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

37 (1) Peace officers listed in Section 830.1 or 830.2, or  
38 subdivision (a) of Section 830.33, whether active or  
39 honorably retired, other duly appointed peace officers,  
40 honorably retired peace officers listed in subdivision (c)

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

16 Any officer, except an officer listed in Section 830.1 or  
 17 830.2, subdivision (a) of Section 830.33, or subdivision (c)  
 18 of Section 830.5 who retired prior to January 1, 1981, shall  
 19 have an endorsement on the identification certificate  
 20 stating that the issuing agency approves the officer's  
 21 carrying of a loaded firearm.

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

35 (2) A retired peace officer, except an officer listed in  
 36 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or  
 37 subdivision (c) of Section 830.5 who retired prior to  
 38 January 1, 1981, shall petition the issuing agency for  
 39 renewal of his or her privilege to carry a loaded firearm  
 40 every five years. An honorably retired peace officer listed

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

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

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

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

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

38 (7) Armored vehicle guards, as defined in Section 7521  
39 of the Business and Professions Code, (A) if hired prior to  
40 January 1, 1977, or (B) if hired on or after that date, if they



1 have received a firearms qualification card from the  
2 Department of Consumer Affairs, in each case while  
3 acting within the course and scope of their employment.

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

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

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

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

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



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

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

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

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

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

37 (2) Guards of contract carriers operating armored  
38 vehicles pursuant to California Highway Patrol and  
39 Public Utilities Commission authority (A) if hired prior  
40 to January 1, 1977, or (B) if hired on or after January 1,



1 1977, if they have completed a course in the carrying and  
2 use of firearms which meets the standards prescribed by  
3 the Department of Consumer Affairs.

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

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

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

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

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

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

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

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

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

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

36 (2) A violation of this section is justifiable when a  
37 person who possesses a firearm reasonably believes that  
38 he or she is in grave danger because of circumstances  
39 forming the basis of a current restraining order issued by  
40 a court against another person or persons who has or have

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

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

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

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

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

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

32 (3) This subdivision shall remain operative only until  
33 January 1, 2005.

34 SEC. 4. No reimbursement is required by this act  
35 pursuant to Section 6 of Article XIII B of the California  
36 Constitution for certain costs that may be incurred by a  
37 local agency or school district because in that regard this  
38 act creates a new crime or infraction, eliminates a crime  
39 or infraction, or changes the penalty for a crime or  
40 infraction, within the meaning of Section 17556 of the

1 Government Code, or changes the definition of a crime  
2 within the meaning of Section 6 of Article XIII B of the  
3 California Constitution.

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

