

ASSEMBLY BILL

No. 1040

Introduced by Assembly Member Wright

February 25, 1999

An act to add Section 12056 to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1040, as introduced, R. Wright. Concealed weapon's license: mandatory issuance.

Existing law authorizes the sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county and has completed a specified course of training on the safety and permissible use of firearms, to issue to that person a license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person, valid for up to 2 years, or 4 years in the case of a deputized or appointed reserve or auxiliary peace officer.

This bill would provide that, upon proof that an applicant meets specified requirements and is either (1) a retailer of a small business, as defined, who certifies that he or she is a full-time operator of a business on site who can provide documentation that he or she routinely transports money or other valuables to or from his or her business or a financial institution, and who provides evidence of his or her need to carry a pistol, revolver, or other firearm capable of being

concealed upon the person; (2) a person who has a report on file with a law enforcement agency and who has had biological samples collected from his or her person evidencing that he or she is a victim of a sexual assault; (3) any person who has a report on file with a law enforcement agency evidencing that he or she is a victim of stalking and who has obtained from a court a restraining order against a specific individual; (4) any person who has a report on file with a law enforcement agency evidencing that he or she is a victim of domestic violence and who has obtained from a court a restraining order against a specific individual; or (5) any person who has a permit to transport machineguns and who must, as a part of his or her employment or business, transport machineguns for use solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event, the sheriff of a county or the chief or other head of a municipal police department of any city or city and county shall issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person. The bill would provide for the denial of an application and for the appeal of any denial of an application, as specified. By imposing new duties on local police officers and departments, this bill would impose a state-mandated local program.

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 no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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 12056 is added to the Penal
2 Code, to read:

3 12056. (a) Except as provided in subdivision (c), the
4 sheriff of a county or the chief or other head of a
5 municipal police department of any city or city and
6 county, upon proof that a person applying (1) is a person
7 described in subdivision (b); (2) is a resident of the
8 county or a city within the county; and (3) meets all the
9 requirements of this article, including training
10 requirements, application costs, and all other applicable
11 requirements, shall issue to that person a license to carry
12 a pistol, revolver, or other firearm capable of being
13 concealed upon the person.

14 (b) The following persons shall be eligible for the
15 issuance of a license to carry a pistol, revolver, or other
16 firearm capable of being concealed upon the person,
17 pursuant to subdivision (a):

18 (1) Small business retailers who certify that they are
19 full-time operators of their businesses on site who can
20 provide documentation that they routinely transport
21 money or other valuables to or from their business or a
22 financial institution, and who provide evidence of their
23 need to carry a pistol, revolver, or other firearm capable
24 of being concealed upon the person.

25 (2) Any person who has a report on file with a law
26 enforcement agency and who has had biological samples
27 collected from his or her person evidencing that he or she
28 is a victim of a sexual assault.

29 (3) Any person who has a report on file with a law
30 enforcement agency evidencing that he or she is a victim
31 of stalking, as defined in Section 646.9, and who has
32 obtained from a court a restraining order against a
33 specific individual.

34 (4) Any person who has a report on file with a law
35 enforcement agency evidencing that he or she is a victim
36 of domestic violence and who has obtained from a court
37 a restraining order against a specific individual.



1 (5) Any person who has a permit issued pursuant to
2 Section 12230 and who must, as a part of his or her
3 employment or business, transport machineguns for use
4 solely as a prop for a motion picture, television, or video
5 production, or an entertainment or theatrical event.

6 (c) (1) Notwithstanding subdivision (a), the licensing
7 authority may reject any application under this section
8 only under the following circumstances:

9 (A) The application contains false information.

10 (B) Credible information exists to suggest that the
11 issuance of a license under this section to the applicant
12 would pose a risk to public safety.

13 (2) Any rejection of an application under this section
14 shall be issued within 30 days after the filing of the
15 application. The rejection shall be made in writing and
16 need only cite the above grounds as the basis for the
17 rejection.

18 (3) A person whose application for a license to carry a
19 pistol, revolver, or other firearm capable of being
20 concealed upon the person is rejected under this section
21 may seek a writ of mandate overturning that rejection
22 pursuant to Sections 1094.5, 1094.6, and related provisions
23 of the Code of Civil Procedure. An applicant who prevails
24 on appeal shall be entitled to a court order to the licensing
25 authority mandating the issuance of the license and the
26 recovery of court costs and attorneys' fees, but shall not
27 be entitled to any damages.

28 (d) For the purposes of this section, "small business"
29 is defined as specified in Section 14837 of the Government
30 Code.

31 SEC. 2. No reimbursement shall be made from the
32 State Mandates Claims Fund pursuant to Part 7
33 (commencing with Section 17500) of Division 4 of Title
34 2 of the Government Code for costs mandated by the
35 state pursuant to this act. It is recognized, however, that
36 a local agency or school district may pursue any remedies
37 to obtain reimbursement available to it under Part 7



1 (commencing with Section 17500) and any other
2 provisions of law.

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