

ASSEMBLY BILL

No. 2351

Introduced by Assembly Member Zettel

February 24, 2000

An act to amend Sections 12132 and 12280 of the Penal Code, relating to weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2351, as introduced, Zettel. Weapons: manufacture, import, and sale.

(1) Existing law, commencing January 1, 2001, makes it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified.

Existing law additionally requires every person licensed to manufacture firearms pursuant to federal law who manufactures firearms in this state and every person who imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm to certify under penalty of perjury that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that he or she manufactures or imports, keeps, or exposes for sale is not a prohibited unsafe handgun.

This bill would exempt from these requirements an assault weapon used exclusively in specified competitions or programs.

(2) Existing law makes it a crime to engage in specified activities regarding assault weapons and regulates the lawful possession of those weapons. Existing law defines the term

“assault weapon” by, among other things, designating a list of specified semiautomatic firearms and providing descriptive definitions concerning the capacity and function of the weapon.

Existing law also provides specified exemptions to the prohibitions regarding use and possession of an assault weapon.

This bill would include among these exemptions the loan of an assault weapon to a minor participating in a competition sanctioned by USA Shooting or the governing body of shooting sports in the United States or who is at a shooting range participating in a shooting development program managed by these organizations and the importation of an assault weapon for exclusive use in competitions or programs developed or sanctioned by these organizations. The bill would authorize the Department of Justice to require proof of membership in these organizations.

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

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

- 1 SECTION 1. Section 12132 of the Penal Code is
- 2 amended to read:
- 3 12132. This chapter shall not apply to any of the
- 4 following:
- 5 (a) The sale, loan, or transfer of any firearm pursuant
- 6 to Section 12082 or 12084 in order to comply with
- 7 subdivision (d) of Section 12072.
- 8 (b) The sale, loan, or transfer of any firearm that is
- 9 exempt from the provisions of subdivision (d) of Section
- 10 12072 pursuant to any applicable exemption contained in
- 11 Section 12078, if the sale, loan, or transfer complies with
- 12 the requirements of that applicable exemption to
- 13 subdivision (d) of Section 12072.
- 14 (c) The sale, loan, or transfer of any firearm as
- 15 described in paragraph (3) of subdivision (b) of Section
- 16 12125.
- 17 (d) The delivery of a pistol, revolver, or other firearm
- 18 capable of being concealed upon the person to a person



1 licensed pursuant to Section 12071 for the purposes of the
2 service or repair of that firearm.

3 (e) The return of a pistol, revolver, or other firearm
4 capable of being concealed upon the person by a person
5 licensed pursuant to Section 12071 to its owner where that
6 firearm was initially delivered in the circumstance set
7 forth in subdivision (d).

8 (f) The return of a pistol, revolver, or other firearm
9 capable of being concealed upon the person by a person
10 licensed pursuant to Section 12071 to its owner where that
11 firearm was initially delivered to that licensee for the
12 purpose of a consignment sale or as collateral for a
13 pawnbroker loan.

14 (g) The sale, loan, or transfer of any pistol, revolver, or
15 other firearm capable of being concealed upon the
16 person listed as a curio or relic, as defined in Section
17 178.11 of the Code of Federal Regulations.

18 (h) *The use of an assault weapon exclusively in*
19 *competitions or programs developed or sanctioned by*
20 *USA Shooting or other governing bodies of shooting*
21 *sports in the United States.*

22 SEC. 2. Section 12280 of the Penal Code is amended
23 to read:

24 12280. (a) (1) Any person who, within this state,
25 manufactures or causes to be manufactured, distributes,
26 transports, or imports into the state, keeps for sale, or
27 offers or exposes for sale, or who gives or lends any assault
28 weapon, except as provided by this chapter, is guilty of a
29 felony, and upon conviction shall be punished by
30 imprisonment in the state prison for four, six, or eight
31 years.

32 (2) In addition and consecutive to the punishment
33 imposed under paragraph (1), any person who transfers,
34 lends, sells, or gives any assault weapon to a minor in
35 violation of paragraph (1) shall receive an enhancement
36 of one year.

37 (b) Except as provided in Section 12288, and in
38 subdivisions (c) and (d), any person who, within this
39 state, possesses any assault weapon, except as provided in
40 this chapter, is guilty of a public offense and upon



1 conviction shall be punished by imprisonment in the state
2 prison, or in a county jail, not exceeding one year.
3 However, if the person presents proof that he or she
4 lawfully possessed the assault weapon prior to June 1,
5 1989, or prior to the date it was specified as an assault
6 weapon, and has since either registered the firearm and
7 any other lawfully obtained firearm specified by Section
8 12276 or 12276.5 pursuant to Section 12285 or relinquished
9 them pursuant to Section 12288, a first-time violation of
10 this subdivision shall be an infraction punishable by a fine
11 of up to five hundred dollars (\$500), but not less than
12 three hundred fifty dollars (\$350), if the person has
13 otherwise possessed the firearm in compliance with
14 subdivision (c) of Section 12285. In these cases, the
15 firearm shall be returned unless the court finds in the
16 interest of public safety, after notice and hearing, that the
17 assault weapon should be destroyed pursuant to Section
18 12028.

19 (c) A first-time violation of subdivision (b) shall be an
20 infraction punishable by a fine of up to five hundred
21 dollars (\$500), if the person was found in possession of no
22 more than two firearms in compliance with subdivision
23 (c) of Section 12285 and the person meets all of the
24 following conditions:

25 (1) The person proves that he or she lawfully possessed
26 the assault weapon prior to the date it was defined as an
27 assault weapon pursuant to Section 12276.1.

28 (2) The person is not found in possession of a firearm
29 specified as an assault weapon pursuant to Section 12276
30 or Section 12276.5.

31 (3) The person has not previously been convicted of
32 violating this section.

33 (4) The person was found to be in possession of the
34 assault weapons within one year following the end of the
35 one-year registration period established pursuant to
36 subdivision (a) of Section 12285.

37 (5) The person has since registered the firearms and
38 any other lawfully obtained firearms defined by Section
39 12276.1, pursuant to Section 12285, except as provided for



1 by this section, or relinquished them pursuant to Section
2 12288.

3 (d) Firearms seized pursuant to subdivision (c) shall
4 be returned unless the court finds in the interest of public
5 safety, after notice and hearing, that the assault weapon
6 should be destroyed pursuant to Section 12028.

7 (e) Notwithstanding Section 654 or any other
8 provision of law, any person who commits another crime
9 while violating this section may receive an additional,
10 consecutive punishment of one year for violating this
11 section in addition and consecutive to the punishment,
12 including enhancements, which is prescribed for the
13 other crime.

14 (f) Subdivisions (a) and (b) shall not apply to the sale
15 to, purchase by, or possession of assault weapons by the
16 Department of Justice, police departments, sheriffs'
17 offices, marshals' offices, the Youth and Adult Corrections
18 Agency, the Department of the California Highway
19 Patrol, district attorneys' offices, Department of Fish and
20 Game, Department of Parks and Recreation, or the
21 military or naval forces of this state or of the United States
22 for use in the discharge of their official duties.

23 (g) Subdivision (b) shall not prohibit the possession or
24 use of assault weapons by sworn peace officer members
25 of those agencies specified in subdivision (f) for law
26 enforcement purposes, whether on or off duty.

27 (h) Subdivisions (a) and (b) shall not prohibit the sale
28 or transfer of assault weapons by an entity specified in
29 subdivision (f) to a person, upon retirement, who retired
30 as a sworn officer from that entity.

31 (i) Subdivision (b) shall not apply to the possession of
32 an assault weapon by a retired peace officer who received
33 that assault weapon pursuant to subdivision (h).

34 (j) Subdivision (b) shall not apply to the possession of
35 an assault weapon, as defined in Section 12276, by any
36 person during the 1990 calendar year, during the 90-day
37 period immediately after the date it was specified as an
38 assault weapon pursuant to Section 12276.5, or during the
39 one-year period after the date it was defined as an assault



1 weapon pursuant to Section 12276.1, if all of the following
2 are applicable:

3 (1) The person is eligible under this chapter to register
4 the particular assault weapon.

5 (2) The person lawfully possessed the particular
6 assault weapon described in paragraph (1) prior to June
7 1, 1989, if the weapon is specified as an assault weapon
8 pursuant to Section 12276, or prior to the date it was
9 specified as an assault weapon pursuant to Section
10 12276.5, or prior to the date it was defined as an assault
11 weapon pursuant to Section 12276.1.

12 (3) The person is otherwise in compliance with this
13 chapter.

14 (k) Subdivisions (a) and (b) shall not apply to the
15 manufacture by persons who are issued permits pursuant
16 to Section 12287 of assault weapons for sale to the
17 following:

18 (1) Exempt entities listed in subdivision (f).

19 (2) Entities and persons who have been issued permits
20 pursuant to Section 12286.

21 (3) Entities outside the state who have, in effect, a
22 federal firearms dealer's license solely for the purpose of
23 distribution to an entity listed in paragraphs (4) to (6),
24 inclusive.

25 (4) Federal military and law enforcement agencies.

26 (5) Law enforcement and military agencies of other
27 states.

28 (6) Foreign governments and agencies approved by
29 the United States State Department.

30 (l) Subdivision (a) shall not apply to a person who is
31 the executor or administrator of an estate that includes an
32 assault weapon registered under Section 12285 or that was
33 possessed pursuant to subdivision (g) or (i) which is
34 disposed of as authorized by the probate court, if the
35 disposition is otherwise permitted by this chapter.

36 (m) Subdivision (b) shall not apply to a person who is
37 the executor or administrator of an estate that includes an
38 assault weapon registered under Section 12285 or that was
39 possessed pursuant to subdivision (g) or (i), if the assault
40 weapon is possessed at a place set forth in paragraph (1)



1 of subdivision (c) of Section 12285 or as authorized by the
2 probate court.

3 (n) Subdivision (a) shall not apply to:

4 (1) A person who lawfully possesses and has registered
5 an assault weapon pursuant to this chapter who lends that
6 assault weapon to another if all the following apply:

7 (A) The person to whom the assault weapon is lent is
8 18 years of age or over and is not in a class of persons
9 prohibited from possessing firearms by virtue of Section
10 12021 or 12021.1 of this code or Section 8100 or 8103 of the
11 Welfare and Institutions Code.

12 (B) The person to whom the assault weapon is lent
13 remains in the presence of the registered possessor of the
14 assault weapon.

15 (C) *The person to whom the assault weapon is lent is*
16 *a minor participating in a competition sanctioned by USA*
17 *Shooting or the governing body of shooting sports in the*
18 *United States or is at a shooting range participating in a*
19 *shooting development program managed by these*
20 *organizations.*

21 (D) The assault weapon is possessed at any of the
22 following locations:

23 (i) While on a target range that holds a regulatory or
24 business license for the purpose of practicing shooting at
25 that target range.

26 (ii) While on the premises of a target range of a public
27 or private club or organization organized for the purpose
28 of practicing shooting at targets.

29 (iii) While attending any exhibition, display, or
30 educational project that is about firearms and that is
31 sponsored by, conducted under the auspices of, or
32 approved by a law enforcement agency or a nationally or
33 state recognized entity that fosters proficiency in, or
34 promotes education about, firearms.

35 (2) The return of an assault weapon to the registered
36 possessor which is lent by the same pursuant to paragraph
37 (1).

38 (3) *The importation of an assault weapon for exclusive*
39 *use in competitions or programs developed or sanctioned*



1 *by USA Shooting or the governing body of shooting sports*
2 *in the United States.*

3 *The Department of Justice may require proof of*
4 *membership in any of the shooting organizations*
5 *described in this subdivision.*

6 (o) Subdivision (b) shall not apply to the possession of
7 an assault weapon by a person to whom an assault weapon
8 is lent pursuant to subdivision (n).

9 (p) Subdivisions (a) and (b) shall not apply to the
10 possession and importation of an assault weapon into this
11 state by a nonresident if all of the following conditions are
12 met:

13 (1) The person is attending or going directly to or
14 coming directly from an organized competitive match or
15 league competition that involves the use of an assault
16 weapon.

17 (2) The competition or match is conducted on the
18 premises of one of the following:

19 (i) A target range that holds a regulatory or business
20 license for the purpose of practicing shooting at that
21 target range.

22 (ii) A target range of a public or private club or
23 organization that is organized for the purpose of
24 practicing shooting at targets.

25 (3) The match or competition is sponsored by,
26 conducted under the auspices of, or approved by, a law
27 enforcement agency or a nationally or state recognized
28 entity that fosters proficiency in, or promotes education
29 about, firearms.

30 (4) The assault weapon is transported in accordance
31 with Section 12026.1 or 12026.2.

32 (5) The person is 18 years of age or over and is not in
33 a class of persons prohibited from possessing firearms by
34 virtue of Section 12021 or 12021.1 of this code or Section
35 8100 or 8103 of the Welfare and Institutions Code.

36 (q) Subdivision (b) shall not apply to any of the
37 following persons:

38 (1) A person acting in accordance with Section 12286.



1 (2) A person who has a permit to possess an assault
2 weapon issued pursuant to Section 12286 when he or she
3 is acting in accordance with Section 12285 or 12286.

4 (r) Subdivisions (a) and (b) shall not apply to any of
5 the following persons:

6 (1) A person acting in accordance with Section 12285.

7 (2) A person acting in accordance with Section 12286
8 or 12290.

9 (s) Subdivision (b) shall not apply to the registered
10 owner of an assault weapon possessing that firearm in
11 accordance with subdivision (c) of Section 12285.

12 (t) Subdivision (a) shall not apply to the importation
13 into this state of an assault weapon by the registered
14 owner of that assault weapon, if it is in accordance with
15 the provisions of subdivision (c) of Section 12285.

16 (u) As used in this chapter, the date a firearm is an
17 assault weapon is the earliest of the following:

18 (1) The effective date of an amendment to Section
19 12276 that adds the designation of the specified firearm.

20 (2) The effective date of the list promulgated pursuant
21 to Section 12276.5 that adds or changes the designation of
22 the specified firearm.

23 (3) The operative date of Section 12276.1, as specified
24 in subdivision (b) of that section.

