

AMENDED IN SENATE APRIL 6, 1999

AMENDED IN SENATE MARCH 16, 1999

SENATE BILL

No. 23

Introduced by Senators Perata, Alpert, Bowen, and Ortiz

(Principal coauthor: Assembly Member Scott)

(Coauthor: Senator O'Connell)

(Coauthors: Assembly Members Alquist, Dutra, Gallegos, Keeley, Knox, Kuehl, Machado, Mazzoni, Migden, Shelley, Steinberg, Torlakson, Thomson, Washington, and Wildman)

December 7, 1998

An act to amend Sections 245, 12001, 12020, 12022, 12022.5, 12280, 12285, and 12289 of, and to add Section 12276.1 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as amended, Perata. Firearms: assault weapons.

(1) Existing law makes it a misdemeanor for any person to manufacture, cause to be manufactured, import into this state, keep or offer for sale, give, lend, or possess specified weapons and explosives.

This bill would make it a misdemeanor or a felony, beginning January 1, 2000, for any person to ~~engage in any of the above activities with respect to~~ *manufacture, import into the state, keep or offer for sale, give, or lend any detachable large-capacity magazine*. A large-capacity magazine would be defined to mean any ammunition feeding device with the capacity to accept more than 10 rounds. By expanding the

definition of, and increasing the penalty for, a crime, this bill imposes a state-mandated local program.

(2) Existing law requires imposition of a longer term of imprisonment on any person convicted of assault with a deadly weapon, and for enhanced terms of imprisonment for a person convicted of a felony, if that person was either armed with, or personally used, an assault weapon or machinegun, as defined, in the commission of, or attempted commission of that felony.

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.

This bill would further define the term “assault weapon” by providing descriptive definitions concerning the capacity and function of the weapon. These expanded definitions would specifically apply to the above-mentioned increased term and enhancement provisions and to related provisions. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law makes it a crime, punishable either as a felony or a misdemeanor, for any person to possess any assault weapon, as defined. However, if a person charged with a first-time violation of that offense presents proof that he or she lawfully possessed the assault weapon within a specified period, and has since registered the weapon or relinquished it, the offense is punishable as an infraction, if the person has also complied with specified conditions. Existing law also provides a period of forgiveness to persons in possession of an assault weapon during a specified period under specified conditions. In addition, existing law exempts specified law enforcement agencies from the prohibition against possession, purchase, or sale of assault weapons.

This bill would make it an infraction, punishable by a fine up to \$500, for a first-time violation of the above-mentioned offense, if the offender was found in possession of no more than 2 firearms in compliance with specified provisions and proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon under the



proposed provision set forth in (2). This bill would also add an additional period of forgiveness for persons in possession of assault weapons, as defined, pursuant to the proposed provision set forth in (2), to extend to the one-year period after the weapon was defined as an assault weapon under that proposed provision. By defining a new crime, this bill would impose a state-mandated local program. *The bill would also exempt certain off-duty and certain retired law enforcement personnel from the prohibition against possession, purchase, or sale of assault weapons.*

(4) Existing law requires any person who lawfully possesses an assault weapon, as defined, prior to specified periods, to register that weapon with the Department of Justice, within a specified period of time.

This bill would require any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to the proposed provision mentioned in (2) above, to register the weapon within one year of the effective date of that provision.

(5) Existing law requires the Department of Justice to conduct a public education and notification program regarding the registration of assault weapons, the limited forgiveness period of the registration requirement and the consequences of nonregistration.

This bill would require that the public education and notification program include the new definition of assault weapons discussed in paragraph (2) above.

(6) The bill would state legislative intent.

(7) The bill would provide that its provisions are severable.

(8) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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 245 of the Penal Code is
2 amended to read:

3 245. (a) (1) Any person who commits an assault
4 upon the person of another with a deadly weapon or
5 instrument other than a firearm or by any means of force
6 likely to produce great bodily injury shall be punished by
7 imprisonment in the state prison for two, three, or four
8 years, or in a county jail for not exceeding one year, or by
9 a fine not exceeding ten thousand dollars (\$10,000), or by
10 both the fine and imprisonment.

11 (2) Any person who commits an assault upon the
12 person of another with a firearm shall be punished by
13 imprisonment in the state prison for two, three, or four
14 years, or in a county jail for not less than six months and
15 not exceeding one year, or by both a fine not exceeding
16 ten thousand dollars (\$10,000) and imprisonment.

17 (3) Any person who commits an assault upon the
18 person of another with a machinegun, as defined in
19 Section 12200, or an assault weapon, as defined in Section
20 12276 or 12276.1, shall be punished by imprisonment in
21 the state prison for 4, 8, or 12 years.

22 (b) Any person who commits an assault upon the
23 person of another with a semiautomatic firearm shall be
24 punished by imprisonment in the state prison for three,
25 six, or nine years.

26 (c) Any person who commits an assault with a deadly
27 weapon or instrument, other than a firearm, or by any
28 means likely to produce great bodily injury upon the
29 person of a peace officer or firefighter, and who knows or
30 reasonably should know that the victim is a peace officer
31 or firefighter engaged in the performance of his or her
32 duties, when the peace officer or firefighter is engaged in
33 the performance of his or her duties, shall be punished by
34 imprisonment in the state prison for three, four, or five
35 years.

36 (d) (1) Any person who commits an assault with a
37 firearm upon the person of a peace officer or firefighter,
38 and who knows or reasonably should know that the victim



1 is a peace officer or firefighter engaged in the
2 performance of his or her duties, when the peace officer
3 or firefighter is engaged in the performance of his or her
4 duties, shall be punished by imprisonment in the state
5 prison for four, six, or eight years.

6 (2) Any person who commits an assault upon the
7 person of a peace officer or firefighter with a
8 semiautomatic firearm and who knows or reasonably
9 should know that the victim is a peace officer or
10 firefighter engaged in the performance of his or her
11 duties, when the peace officer or firefighter is engaged in
12 the performance of his or her duties, shall be punished by
13 imprisonment in the state prison for five, seven, or nine
14 years.

15 (3) Any person who commits an assault with a
16 machinegun, as defined in Section 12200, or an assault
17 weapon, as defined in Section 12276 or 12276.1, upon the
18 person of a peace officer or firefighter, and who knows or
19 reasonably should know that the victim is a peace officer
20 or firefighter engaged in the performance of his or her
21 duties, shall be punished by imprisonment in the state
22 prison for 6, 9, or 12 years.

23 (e) When a person is convicted of a violation of this
24 section in a case involving use of a deadly weapon or
25 instrument or firearm, and the weapon or instrument or
26 firearm is owned by that person, the court shall order that
27 the weapon or instrument or firearm be deemed a
28 nuisance, and it shall be confiscated and disposed of in the
29 manner provided by Section 12028.

30 (f) As used in this section, “peace officer” refers to any
31 person designated as a peace officer in Chapter 4.5
32 (commencing with Section 830) of Title 3 of Part 2.

33 SEC. 2. Section 12001 of the Penal Code is amended
34 to read:

35 12001. (a) As used in this title, the terms “pistol,”
36 “revolver,” and “firearm capable of being concealed
37 upon the person” shall apply to and include any device
38 designed to be used as a weapon, from which is expelled
39 a projectile by the force of any explosion, or other form
40 of combustion, and that has a barrel less than 16 inches in



1 length. These terms also include any device that has a
2 barrel 16 inches or more in length which is designed to be
3 interchanged with a barrel less than 16 inches in length.

4 (b) As used in this title, “firearm” means any device,
5 designed to be used as a weapon, from which is expelled
6 through a barrel a projectile by the force of any explosion
7 or other form of combustion.

8 (c) As used in Sections 12021, 12021.1, 12070, 12071,
9 12072, 12073, 12078, and 12101 of this code, and Sections
10 8100, 8101, and 8103 of the Welfare and Institutions Code,
11 the term “firearm” includes the frame or receiver of the
12 weapon.

13 (d) For the purposes of Sections 12025 and 12031, the
14 term “firearm” also shall include any rocket, rocket
15 propelled projectile launcher, or similar device
16 containing any explosive or incendiary material whether
17 or not the device is designed for emergency or distress
18 signaling purposes.

19 (e) For purposes of Sections 12070, 12071, and
20 paragraph (7) of subdivision (a), and subdivisions (b),
21 (c), (d), and (f) of Section 12072, the term “firearm” does
22 not include an unloaded firearm that is defined as an
23 “antique firearm” in Section 921(a)(16) of Title 18 of the
24 United States Code.

25 (f) Nothing shall prevent a device defined as a
26 “pistol,” “revolver,” or “firearm capable of being
27 concealed upon the person” from also being found to be
28 a short-barreled shotgun or a short-barreled rifle, as
29 defined in Section 12020.

30 (g) For purposes of Sections 12551 and 12552, the term
31 “BB device” means any instrument that expels a metallic
32 projectile, such as a BB or a pellet, through the force of
33 air pressure, CO₂ pressure, or spring action, or any spot
34 marker gun.

35 (h) As used in this title, “wholesaler” means any
36 person who is licensed as a dealer pursuant to Chapter 44
37 (commencing with Section 921) of Title 18 of the United
38 States Code and the regulations issued pursuant thereto
39 who sells, transfers, or assigns firearms, or parts of
40 firearms, to persons who are licensed as manufacturers,



1 importers, or gunsmiths pursuant to Chapter 44
2 (commencing with Section 921) of Title 18 of the United
3 States Code, or persons licensed pursuant to Section
4 12071, and includes persons who receive finished parts of
5 firearms and assemble them into completed or partially
6 completed firearms in furtherance of that purpose.

7 “Wholesaler” shall not include a manufacturer,
8 importer, or gunsmith who is licensed to engage in those
9 activities pursuant to Chapter 44 (commencing with
10 Section 921) of Title 18 of the United States Code or a
11 person licensed pursuant to Section 12071 and the
12 regulations issued pursuant thereto. A wholesaler also
13 does not include those persons dealing exclusively in
14 grips, stocks, and other parts of firearms that are not
15 frames or receivers thereof.

16 (i) As used in Section 12071, 12072, or 12084,
17 “application to purchase” means any of the following:

18 (1) The initial completion of the register by the
19 purchaser, transferee, or person being loaned the firearm
20 as required by subdivision (b) of Section 12076.

21 (2) The initial completion of the LEFT by the
22 purchaser, transferee, or person being loaned the firearm
23 as required by subdivision (d) of Section 12084.

24 (3) The initial completion and transmission to the
25 department of the record of electronic or telephonic
26 transfer by the dealer on the purchaser, transferee, or
27 person being loaned the firearm as required by
28 subdivision (c) of Section 12076.

29 (j) For purposes of Section 12023, a firearm shall be
30 deemed to be “loaded” whenever both the firearm and
31 the unexpended ammunition capable of being
32 discharged from the firearm are in the immediate
33 possession of the same person.

34 (k) For purposes of Sections 12021, 12021.1, 12025,
35 12070, 12072, 12073, 12078, and 12101 of this code, and
36 Sections 8100, 8101, and 8103 of the Welfare and
37 Institutions Code, notwithstanding the fact that the term
38 “any firearm” may be used in those sections, each firearm
39 or the frame or receiver of the same shall constitute a
40 distinct and separate offense under those sections.



1 (l) For purposes of Section 12020, a violation of that
2 section as to each firearm, weapon, or device enumerated
3 therein shall constitute a distinct and separate offense.

4 (m) Each application that requires any firearms
5 eligibility determination involving the issuance of any
6 license, permit, or certificate pursuant to this title shall
7 include two copies of the applicant's fingerprints on
8 forms prescribed by the Department of Justice. One copy
9 of the fingerprints may be submitted to the United States
10 Federal Bureau of Investigation.

11 (n) As used in this chapter, a "personal handgun
12 importer" means an individual who meets all of the
13 following criteria:

14 (1) He or she is not a person licensed pursuant to
15 Section 12071.

16 (2) He or she is not a licensed manufacturer of
17 firearms pursuant to Chapter 44 (commencing with
18 Section 921) of Title 18 of the United States Code.

19 (3) He or she is not a licensed importer of firearms
20 pursuant to Chapter 44 (commencing with Section 921)
21 of Title 18 of the United States Code and the regulations
22 issued pursuant thereto.

23 (4) He or she is the owner of a pistol, revolver, or other
24 firearm capable of being concealed upon the person.

25 (5) He or she acquired that pistol, revolver, or other
26 firearm capable of being concealed upon the person
27 outside of California.

28 (6) He or she moves into this state on or after January
29 1, 1998, as a resident of this state.

30 (7) He or she intends to possess that pistol, revolver, or
31 other firearm capable of being concealed upon the
32 person within this state on or after January 1, 1998.

33 (8) The pistol, revolver, or other firearm capable of
34 being concealed upon the person was not delivered to
35 him or her by a person licensed pursuant to Section 12071
36 who delivered that firearm following the procedures set
37 forth in Section 12071 and subdivision (c) of Section
38 12072.

39 (9) He or she, while a resident of this state, had not
40 previously reported his or her ownership of that pistol,



1 revolver, or other firearm capable of being concealed
2 upon the person to the Department of Justice in a manner
3 prescribed by the department that included information
4 concerning him or her and a description of the firearm.

5 (10) The pistol, revolver, or other firearm capable of
6 being concealed upon the person is not a firearm that is
7 prohibited by subdivision (a) of Section 12020.

8 (11) The pistol, revolver, or other firearm capable of
9 being concealed upon the person is not an assault
10 weapon, as defined in Section 12276 or 12276.1.

11 (12) The pistol, revolver, or other firearm capable of
12 being concealed upon the person is not a machinegun, as
13 defined in Section 12200.

14 (13) The person is 18 years of age or older.

15 (o) For purposes of paragraph (6) of subdivision (n):

16 (1) Except as provided in paragraph (2), residency
17 shall be determined in the same manner as is the case for
18 establishing residency pursuant to Section 12505 of the
19 Vehicle Code.

20 (2) In the case of members of the armed forces of the
21 United States, residency shall be deemed to be
22 established when he or she was discharged from active
23 service in this state.

24 SEC. 3. Section 12020 of the Penal Code is amended
25 to read:

26 12020. (a) Any person in this state who does any of
27 the following is punishable by imprisonment in a county
28 jail not exceeding one year or in the state prison:

29 (1) Manufactures or causes to be manufactured,
30 imports into the state, keeps for sale, or offers or exposes
31 for sale, or who gives, lends, or possesses any cane gun or
32 wallet gun, any undetectable firearm, any firearm which
33 is not immediately recognizable as a firearm, any
34 camouflaging firearm container, any ammunition which
35 contains or consists of any fléchette dart, any bullet
36 containing or carrying an explosive agent, any ballistic
37 knife, any multiburst trigger activator, any nunchaku,
38 any short-barreled shotgun, any short-barreled rifle, any
39 metal knuckles, any belt buckle knife, any leaded cane,
40 any zip gun, any shuriken, any unconventional pistol, any



1 lipstick case knife, any cane sword, any shobi-zue, any air
2 gauge knife, any writing pen knife, any metal military
3 practice handgrenade or metal replica handgrenade, or
4 any instrument or weapon of the kind commonly known
5 as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

6 (2) Commencing January 1, 2000, manufactures or
7 causes to be manufactured, imports into the state, keeps
8 for sale, or offers or exposes for sale, or who gives, or lends,
9 except to any ~~licensed dealer or person licensed pursuant~~
10 ~~to Section 12071 or to a~~ gunsmith for the purposes of
11 maintenance, repair, or modification, any detachable
12 large-capacity magazine.

13 (3) Carries concealed upon his or her person any
14 explosive substance, other than fixed ammunition.

15 (4) Carries concealed upon his or her person any dirk
16 or dagger.

17 However, a first offense involving any metal military
18 practice handgrenade or metal replica handgrenade shall
19 be punishable only as an infraction unless the offender is
20 an active participant in a criminal street gang as defined
21 in the Street Terrorism and Enforcement and Prevention
22 Act (Chapter 11 (commencing with Section 186.29) of
23 Title 7 of Part 1). A bullet containing or carrying an
24 explosive agent is not a destructive device as that term is
25 used in Section 12301.

26 (b) Subdivision (a) does not apply to any of the
27 following:

28 (1) The sale to, purchase by, or possession of
29 short-barreled shotguns or short-barreled rifles by police
30 departments, sheriffs' offices, marshals' offices, the
31 California Highway Patrol, the Department of Justice, or
32 the military or naval forces of this state or of the United
33 States for use in the discharge of their official duties or the
34 possession of short-barreled shotguns and short-barreled
35 rifles by regular, salaried, full-time members of a police
36 department, sheriff's office, marshal's office, the
37 California Highway Patrol, or the Department of Justice
38 when on duty and the use is authorized by the agency and
39 is within the course and scope of their duties.



1 (2) The manufacture, possession, transportation or
2 sale of short-barreled shotguns or short-barreled rifles
3 when authorized by the Department of Justice pursuant
4 to Article 6 (commencing with Section 12095) of this
5 chapter and not in violation of federal law.

6 (3) The possession of a nunchaku on the premises of a
7 school which holds a regulatory or business license and
8 teaches the arts of self-defense.

9 (4) The manufacture of a nunchaku for sale to, or the
10 sale of a nunchaku to, a school which holds a regulatory
11 or business license and teaches the arts of self-defense.

12 (5) Any antique firearm. For purposes of this section,
13 “antique firearm” means any firearm not designed or
14 redesigned for using rimfire or conventional center fire
15 ignition with fixed ammunition and manufactured in or
16 before 1898 (including any matchlock, flintlock,
17 percussion cap, or similar type of ignition system or
18 replica thereof, whether actually manufactured before or
19 after the year 1898) and also any firearm using fixed
20 ammunition manufactured in or before 1898, for which
21 ammunition is no longer manufactured in the United
22 States and is not readily available in the ordinary channels
23 of commercial trade.

24 (6) Tracer ammunition manufactured for use in
25 shotguns.

26 (7) Any firearm or ammunition which is a curio or relic
27 as defined in Section 178.11 of Title 27 of the Code of
28 Federal Regulations and which is in the possession of a
29 person permitted to possess the items pursuant to
30 Chapter 44 (commencing with Section 921) of Title 18 of
31 the United States Code and the regulations issued
32 pursuant thereto. Any person prohibited by Section
33 12021, 12021.1, or 12101 of this code or Section 8100 or 8103
34 of the Welfare and Institutions Code from possessing
35 firearms or ammunition who obtains title to these items
36 by bequest or intestate succession may retain title for not
37 more than one year, but actual possession of these items
38 at any time is punishable pursuant to Section 12021,
39 12021.1, or 12101 of this code or Section 8100 or 8103 of the
40 Welfare and Institutions Code. Within the year, the



1 person shall transfer title to the firearms or ammunition
2 by sale, gift, or other disposition. Any person who violates
3 this paragraph is in violation of subdivision (a).

4 (8) Any other weapon as defined in subsection (e) of
5 Section 5845 of Title 26 of the United States Code and
6 which is in the possession of a person permitted to possess
7 the weapons pursuant to the federal Gun Control Act of
8 1968 (Public Law 90-618), as amended, and the
9 regulations issued pursuant thereto. Any person
10 prohibited by Section 12021, 12021.1, or 12101 of this code
11 or Section 8100 or 8103 of the Welfare and Institutions
12 Code from possessing these weapons who obtains title to
13 these weapons by bequest or intestate succession may
14 retain title for not more than one year, but actual
15 possession of these weapons at any time is punishable
16 pursuant to Section 12021, 12021.1, or 12101 of this code or
17 Section 8100 or 8103 of the Welfare and Institutions Code.
18 Within the year, the person shall transfer title to the
19 weapons by sale, gift, or other disposition. Any person
20 who violates this paragraph is in violation of subdivision
21 (a). The exemption provided in this subdivision does not
22 apply to pen guns.

23 (9) Instruments or devices that are possessed by
24 federal, state, and local historical societies, museums, and
25 institutional collections which are open to the public,
26 provided that these instruments or devices are properly
27 housed, secured from unauthorized handling, and, if the
28 instrument or device is a firearm, unloaded.

29 (10) Instruments or devices, other than short-barreled
30 shotguns or short-barreled rifles, that are possessed or
31 utilized during the course of a motion picture, television,
32 or video production or entertainment event by an
33 authorized participant therein in the course of making
34 that production or event or by an authorized employee
35 or agent of the entity producing that production or event.

36 (11) Instruments or devices, other than short-barreled
37 shotguns or short-barreled rifles, that are sold by,
38 manufactured by, exposed or kept for sale by, possessed
39 by, imported by, or lent by persons who are in the
40 business of selling instruments or devices listed in



1 subdivision (a) solely to the entities referred to in
2 paragraphs (9) and (10) when engaging in transactions
3 with those entities.

4 (12) The sale to, possession of, or purchase of any
5 weapon, device, or ammunition, other than a
6 short-barreled rifle or short-barreled shotgun, by any
7 federal, state, county, city and county, or city agency that
8 is charged with the enforcement of any law for use in the
9 discharge of their official duties, or the possession of any
10 weapon, device, or ammunition, other than a
11 short-barreled rifle or short-barreled shotgun, by peace
12 officers thereof when on duty and the use is authorized
13 by the agency and is within the course and scope of their
14 duties.

15 (13) Weapons, devices, and ammunition, other than a
16 short-barreled rifle or short-barreled shotgun, that are
17 sold by, manufactured by, exposed, or kept for sale by,
18 possessed by, imported by, or lent by, persons who are in
19 the business of selling weapons, devices, and ammunition
20 listed in subdivision (a) solely to the entities referred to
21 in paragraph (12) when engaging in transactions with
22 those entities.

23 (14) The manufacture for, sale to, exposing or keeping
24 for sale to, importation of, or lending of wooden clubs or
25 batons to special police officers or uniformed security
26 guards authorized to carry any wooden club or baton
27 pursuant to Section 12002 by entities that are in the
28 business of selling wooden batons or clubs to special police
29 officers and uniformed security guards when engaging in
30 transactions with those persons.

31 (15) Any plastic toy handgrenade, or any metal
32 military practice handgrenade or metal replica
33 handgrenade that is a relic, curio, memorabilia, or display
34 item, that is filled with a permanent inert substance or
35 that is otherwise permanently altered in a manner that
36 prevents ready modification for use as a grenade.

37 (16) Any instrument, ammunition, weapon, or device
38 listed in subdivision (a) that is not a firearm that is found
39 and possessed by a person who meets all of the following:



1 (A) The person is not prohibited from possessing
2 firearms or ammunition pursuant to Section 12021 or
3 12021.1 or paragraph (1) of subdivision (b) of Section
4 12316 of this code or Section 8100 or 8103 of the Welfare
5 and Institutions Code.

6 (B) The person possessed the instrument,
7 ammunition, weapon, or device no longer than was
8 necessary to deliver or transport the same to a law
9 enforcement agency for that agency's disposition
10 according to law.

11 (C) If the person is transporting the listed item, he or
12 she is transporting the listed item to a law enforcement
13 agency for disposition according to law.

14 (17) Any firearm, other than a short-barreled rifle or
15 short-barreled shotgun, that is found and possessed by a
16 person who meets all of the following:

17 (A) The person is not prohibited from possessing
18 firearms or ammunition pursuant to Section 12021 or
19 12021.1 or paragraph (1) of subdivision (b) of Section
20 12316 of this code or Section 8100 or 8103 of the Welfare
21 and Institutions Code.

22 (B) The person possessed the firearm no longer than
23 was necessary to deliver or transport the same to a law
24 enforcement agency for that agency's disposition
25 according to law.

26 (C) If the person is transporting the firearm, he or she
27 is transporting the firearm to a law enforcement agency
28 for disposition according to law.

29 (D) Prior to transporting the firearm to a law
30 enforcement agency, he or she has given prior notice to
31 that law enforcement agency that he or she is
32 transporting the firearm to that law enforcement agency
33 for disposition according to law.

34 (E) The firearm is transported in a locked container as
35 defined in subdivision (d) of Section 12026.2.

36 (18) The possession of any weapon, device, or
37 ammunition, by a forensic laboratory or any authorized
38 agent or employee thereof in the course and scope of his
39 or her authorized activities.



1 (19) The sale to, or purchase of, any ~~large-capacity~~
2 ~~ammunition-feeding-device detachable large-capacity~~
3 ~~magazine~~ by, any federal, state, county, city and county,
4 or city agency that is charged with the enforcement of
5 any law for use in the discharge of their official duties
6 when on duty and the use is authorized by the agency and
7 is within the course and scope of their duties.

8 (20) The sale to, or purchase of any ~~large-capacity~~
9 ~~ammunition-feeding-device detachable large-capacity~~
10 ~~magazine~~ by, a ~~licensed gun dealer~~ *person licensed*
11 *pursuant to Section 12071.*

12 (21) *The loan of a lawfully possessed large-capacity*
13 *magazine between two individuals if all of the following*
14 *conditions are met:*

15 (A) *The person being loaned the large-capacity*
16 *magazine is not prohibited by Section 12021, 12021.1, or*
17 *12101 of this code or Section 8100 or 8103 of the Welfare*
18 *and Institutions Code from possessing firearms or*
19 *ammunition.*

20 (B) *The loan of the large-capacity magazine occurs at*
21 *a place or location where the possession of the*
22 *large-capacity magazine is not otherwise prohibited and*
23 *the person who lends the large-capacity magazine*
24 *remains in the accessible vicinity of the person to whom*
25 *the large-capacity magazine is loaned.*

26 (22) *The importation of a large-capacity magazine by*
27 *a person who lawfully possessed the large-capacity*
28 *magazine in the state prior to January 1, 2000, lawfully*
29 *took it out of the state, and is returning to the state with*
30 *the large-capacity magazine previously lawfully*
31 *possessed in the state.*

32 (c) (1) As used in this section, a “short-barreled
33 shotgun” means any of the following:

34 (A) A firearm which is designed or redesigned to fire
35 a fixed shotgun shell and having a barrel or barrels of less
36 than 18 inches in length.

37 (B) A firearm which has an overall length of less than
38 26 inches and which is designed or redesigned to fire a
39 fixed shotgun shell.



1 (C) Any weapon made from a shotgun (whether by
2 alteration, modification, or otherwise) if that weapon, as
3 modified, has an overall length of less than 26 inches or a
4 barrel or barrels of less than 18 inches in length.

5 (D) Any device which may be readily restored to fire
6 a fixed shotgun shell which, when so restored, is a device
7 defined in subparagraphs (A) to (C), inclusive.

8 (E) Any part, or combination of parts, designed and
9 intended to convert a device into a device defined in
10 subparagraphs (A) to (C), inclusive, or any combination
11 of parts from which a device defined in subparagraphs
12 (A) to (C), inclusive, can be readily assembled if those
13 parts are in the possession or under the control of the
14 same person.

15 (2) As used in this section, a “short-barreled rifle”
16 means any of the following:

17 (A) A rifle having a barrel or barrels of less than 16
18 inches in length.

19 (B) A rifle with an overall length of less than 26 inches.

20 (C) Any weapon made from a rifle (whether by
21 alteration, modification, or otherwise) if that weapon, as
22 modified, has an overall length of less than 26 inches or a
23 barrel or barrels of less than 16 inches in length.

24 (D) Any device which may be readily restored to fire
25 a fixed cartridge which, when so restored, is a device
26 defined in subparagraphs (A) to (C), inclusive.

27 (E) Any part, or combination of parts, designed and
28 intended to convert a device into a device defined in
29 subparagraphs (A) to (C), inclusive, or any combination
30 of parts from which a device defined in subparagraphs
31 (A) to (C), inclusive, may be readily assembled if those
32 parts are in the possession or under the control of the
33 same person.

34 (3) As used in this section, a “nunchaku” means an
35 instrument consisting of two or more sticks, clubs, bars or
36 rods to be used as handles, connected by a rope, cord,
37 wire, or chain, in the design of a weapon used in
38 connection with the practice of a system of self-defense
39 such as karate.



1 (4) As used in this section, a “wallet gun” means any
2 firearm mounted or enclosed in a case, resembling a
3 wallet, designed to be or capable of being carried in a
4 pocket or purse, if the firearm may be fired while
5 mounted or enclosed in the case.

6 (5) As used in this section, a “cane gun” means any
7 firearm mounted or enclosed in a stick, staff, rod, crutch,
8 or similar device, designed to be, or capable of being used
9 as, an aid in walking, if the firearm may be fired while
10 mounted or enclosed therein.

11 (6) As used in this section, a “fléchette dart” means a
12 dart, capable of being fired from a firearm, which
13 measures approximately one inch in length, with tail fins
14 which take up five-sixteenths of an inch of the body.

15 (7) As used in this section, “metal knuckles” means
16 any device or instrument made wholly or partially of
17 metal which is worn for purposes of offense or defense in
18 or on the hand and which either protects the wearer’s
19 hand while striking a blow or increases the force of impact
20 from the blow or injury to the individual receiving the
21 blow. The metal contained in the device may help
22 support the hand or fist, provide a shield to protect it, or
23 consist of projections or studs which would contact the
24 individual receiving a blow.

25 (8) As used in this section, a “ballistic knife” means a
26 device that propels a knifelike blade as a projectile by
27 means of a coil spring, elastic material, or compressed gas.
28 Ballistic knife does not include any device which propels
29 an arrow or a bolt by means of any common bow,
30 compound bow, crossbow, or underwater spear gun.

31 (9) As used in this section, a “camouflaging firearm
32 container” means a container which meets all of the
33 following criteria:

34 (A) It is designed and intended to enclose a firearm.

35 (B) It is designed and intended to allow the firing of
36 the enclosed firearm by external controls while the
37 firearm is in the container.

38 (C) It is not readily recognizable as containing a
39 firearm.



1 “Camouflaging firearm container” does not include
2 any camouflaging covering used while engaged in lawful
3 hunting or while going to or returning from a lawful
4 hunting expedition.

5 (10) As used in this section, a “zip gun” means any
6 weapon or device which meets all of the following
7 criteria:

8 (A) It was not imported as a firearm by an importer
9 licensed pursuant to Chapter 44 (commencing with
10 Section 921) of Title 18 of the United States Code and the
11 regulations issued pursuant thereto.

12 (B) It was not originally designed to be a firearm by a
13 manufacturer licensed pursuant to Chapter 44
14 (commencing with Section 921) of Title 18 of the United
15 States Code and the regulations issued pursuant thereto.

16 (C) No tax was paid on the weapon or device nor was
17 an exemption from paying tax on that weapon or device
18 granted under Section 4181 and subchapters F
19 (commencing with Section 4216) and G (commencing
20 with Section 4221) of Chapter 32 of Title 26 of the United
21 States Code, as amended, and the regulations issued
22 pursuant thereto.

23 (D) It is made or altered to expel a projectile by the
24 force of an explosion or other form of combustion.

25 (11) As used in this section, a “shuriken” means any
26 instrument, without handles, consisting of a metal plate
27 having three or more radiating points with one or more
28 sharp edges and designed in the shape of a polygon,
29 trefoil, cross, star, diamond, or other geometric shape for
30 use as a weapon for throwing.

31 (12) As used in this section, an “unconventional pistol”
32 means a firearm that does not have a rifled bore and has
33 a barrel or barrels of less than 18 inches in length or has
34 an overall length of less than 26 inches.

35 (13) As used in this section, a “belt buckle knife” is a
36 knife which is made an integral part of a belt buckle and
37 consists of a blade with a length of at least 2¹/₂ inches.

38 (14) As used in this section, a “lipstick case knife”
39 means a knife enclosed within and made an integral part
40 of a lipstick case.



1 (15) As used in this section, a “cane sword” means a
2 cane, swagger stick, stick, staff, rod, pole, umbrella, or
3 similar device, having concealed within it a blade that
4 may be used as a sword or stiletto.

5 (16) As used in this section, a “shobi-zue” means a staff,
6 crutch, stick, rod, or pole concealing a knife or blade
7 within it which may be exposed by a flip of the wrist or
8 by a mechanical action.

9 (17) As used in this section, a “leaded cane” means a
10 staff, crutch, stick, rod, pole, or similar device,
11 unnaturally weighted with lead.

12 (18) As used in this section, an “air gauge knife” means
13 a device that appears to be an air gauge but has concealed
14 within it a pointed, metallic shaft that is designed to be a
15 stabbing instrument which is exposed by mechanical
16 action or gravity which locks into place when extended.

17 (19) As used in this section, a “writing pen knife”
18 means a device that appears to be a writing pen but has
19 concealed within it a pointed, metallic shaft that is
20 designed to be a stabbing instrument which is exposed by
21 mechanical action or gravity which locks into place when
22 extended or the pointed, metallic shaft is exposed by the
23 removal of the cap or cover on the device.

24 (20) As used in this section, a “rifle” means a weapon
25 designed or redesigned, made or remade, and intended
26 to be fired from the shoulder and designed or redesigned
27 and made or remade to use the energy of the explosive in
28 a fixed cartridge to fire only a single projectile through a
29 rifled bore for each single pull of the trigger.

30 (21) As used in this section, a “shotgun” means a
31 weapon designed or redesigned, made or remade, and
32 intended to be fired from the shoulder and designed or
33 redesigned and made or remade to use the energy of the
34 explosive in a fixed shotgun shell to fire through a smooth
35 bore either a number of projectiles (ball shot) or a single
36 projectile for each pull of the trigger.

37 (22) As used in this section, an “undetectable firearm”
38 means any weapon which meets one of the following
39 requirements:



1 (A) When, after removal of grips, stocks, and
2 magazines, it is not as detectable as the Security
3 Exemplar, by walk-through metal detectors calibrated
4 and operated to detect the Security Exemplar.

5 (B) When any major component of which, when
6 subjected to inspection by the types of X-ray machines
7 commonly used at airports, does not generate an image
8 that accurately depicts the shape of the component.
9 Barium sulfate or other compounds may be used in the
10 fabrication of the component.

11 (C) For purposes of this paragraph, the terms
12 “firearm,” “major component,” and “Security Exemplar”
13 have the same meanings as those terms are defined in
14 Section 922 of Title 18 of the United States Code.

15 All firearm detection equipment newly installed in
16 nonfederal public buildings in this state shall be of a type
17 identified by either the United States Attorney General,
18 the Secretary of Transportation, or the Secretary of the
19 Treasury, as appropriate, as available state-of-the-art
20 equipment capable of detecting an undetectable firearm,
21 as defined, while distinguishing innocuous metal objects
22 likely to be carried on one’s person sufficient for
23 reasonable passage of the public.

24 (23) As used in this section, a “multiburst trigger
25 activator” means one of the following devices:

26 (A) A device designed or redesigned to be attached
27 to a semiautomatic firearm which allows the firearm to
28 discharge two or more shots in a burst by activating the
29 device.

30 (B) A manual or power-driven trigger activating
31 device constructed and designed so that when attached
32 to a semiautomatic firearm it increases the rate of fire of
33 that firearm.

34 (24) As used in this section, a “dirk” or “dagger” means
35 a knife or other instrument with or without a handguard
36 that is capable of ready use as a stabbing weapon that may
37 inflict great bodily injury or death. A nonlocking folding
38 knife, a folding knife that is not prohibited by Section
39 653k, or a pocketknife is capable of ready use as a stabbing
40 weapon that may inflict great bodily injury or death only



1 if the blade of the knife is exposed and locked into
2 position.

3 (25) As used in this section, “large-capacity magazine”
4 means any detachable ammunition feeding device with
5 the capacity to accept more than 10 rounds, but shall not
6 be construed to include a feeding device that has been
7 permanently altered so that it cannot accommodate more
8 than 10 rounds nor shall it include any .22 caliber tube
9 ammunition feeding device.

10 (d) Knives carried in sheaths which are worn openly
11 suspended from the waist of the wearer are not concealed
12 within the meaning of this section.

13 SEC. 4. Section 12022 of the Penal Code is amended
14 to read:

15 12022. (a) (1) Except as provided in subdivisions (c)
16 and (d), any person who is armed with a firearm in the
17 commission or attempted commission of a felony shall,
18 upon conviction of that felony or attempted felony, in
19 addition and consecutive to the punishment prescribed
20 for the felony or attempted felony of which he or she has
21 been convicted, be punished by an additional term of one
22 year, unless the arming is an element of the offense of
23 which he or she was convicted. This additional term shall
24 apply to any person who is a principal in the commission
25 or attempted commission of a felony if one or more of the
26 principals is armed with a firearm, whether or not the
27 person is personally armed with a firearm.

28 (2) Except as provided in subdivision (c), and
29 notwithstanding subdivision (d), if the firearm is an
30 assault weapon, as defined in Section 12276 or Section
31 12276.1, or a machinegun, as defined in Section 12200, the
32 additional term described in this subdivision shall be
33 three years whether or not the arming is an element of
34 the offense of which he or she was convicted. The
35 additional term provided in this paragraph shall apply to
36 any person who is a principal in the commission or
37 attempted commission of a felony if one or more of the
38 principals is armed with an assault weapon or
39 machinegun whether or not the person is personally
40 armed with an assault weapon or machinegun.



1 (b) (1) Any person who personally uses a deadly or
2 dangerous weapon in the commission or attempted
3 commission of a felony shall, upon conviction of that
4 felony or attempted felony, in addition and consecutive
5 to the punishment prescribed for the felony or attempted
6 felony of which he or she has been convicted, be punished
7 by an additional term of one year, unless use of a deadly
8 or dangerous weapon is an element of the offense of
9 which he or she was convicted.

10 (2) If the person described in paragraph (1) has been
11 convicted of carjacking or attempted carjacking, the
12 additional term shall be one, two, or three years.

13 (3) When a person is found to have personally used a
14 deadly or dangerous weapon in the commission or
15 attempted commission of a felony as provided in this
16 subdivision and the weapon is owned by that person, the
17 court shall order that the weapon be deemed a nuisance
18 and disposed of in the manner provided in Section 12028.

19 (c) Notwithstanding the enhancement set forth in
20 subdivision (a), any person who is personally armed with
21 a firearm in the commission or attempted commission of
22 a violation of Section 11351, 11351.5, 11352, 11366.5,
23 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the
24 Health and Safety Code, shall, upon conviction of that
25 offense and in addition and consecutive to the
26 punishment prescribed for that offense of which he or she
27 has been convicted, be punished by an additional term of
28 imprisonment in the state prison for three, four, or five
29 years in the court's discretion. The court shall order the
30 middle term unless there are circumstances in
31 aggravation or mitigation. The court shall state the
32 reasons for its enhancement choice on the record at the
33 time of the sentence.

34 (d) Notwithstanding the enhancement set forth in
35 subdivision (a), any person who is not personally armed
36 with a firearm who, knowing that another principal is
37 personally armed with a firearm, is a principal in the
38 commission or attempted commission of an offense
39 specified in subdivision (c), shall, upon conviction of that
40 offense, be punished by an additional term of one, two, or



1 three years in the court's discretion. The court shall order
2 the middle term unless there are circumstances in
3 aggravation or mitigation. The court shall state the
4 reasons for its enhancement choice on the record at the
5 time of the sentence.

6 (e) For purposes of imposing an enhancement under
7 Section 1170.1, the enhancements under this section shall
8 count as one, single enhancement.

9 (f) Notwithstanding any other provision of law, the
10 court may strike the additional punishment for the
11 enhancements provided in subdivision (c) or (d) in an
12 unusual case where the interests of justice would best be
13 served, if the court specifies on the record and enters into
14 the minutes the circumstances indicating that the
15 interests of justice would best be served by that
16 disposition.

17 SEC. 5. Section 12022.5 of the Penal Code is amended
18 to read:

19 12022.5. (a) (1) Except as provided in subdivisions
20 (b) and (c), any person who personally uses a firearm in
21 the commission or attempted commission of a felony
22 shall, upon conviction of that felony or attempted felony,
23 in addition and consecutive to the punishment
24 prescribed for the felony or attempted felony of which he
25 or she has been convicted, be punished by an additional
26 term of imprisonment in the state prison for 3, 4, or 10
27 years, unless use of a firearm is an element of the offense
28 of which he or she was convicted.

29 (2) If the person described in paragraph (1) has been
30 convicted of carjacking or attempted carjacking, the
31 additional term shall be 4, 5, or 10 years. The court shall
32 order imposition of the middle term unless there are
33 circumstances in aggravation or mitigation. The court
34 shall state its reasons for its enhancement choice on the
35 record at the time of sentencing.

36 (b) (1) Notwithstanding subdivision (a), any person
37 who is convicted of a felony or an attempt to commit a
38 felony, including murder or attempted murder, in which
39 that person discharged a firearm at an occupied motor
40 vehicle which caused great bodily injury or death to the



1 person of another, shall, upon conviction of that felony or
2 attempted felony, in addition and consecutive to the
3 sentence prescribed for the felony or attempted felony,
4 be punished by an additional term of imprisonment in the
5 state prison for 5, 6, or 10 years.

6 (2) Notwithstanding subdivision (a), any person who
7 personally uses an assault weapon, as specified in Section
8 12276 or Section 12276.1, or a machinegun, as defined in
9 Section 12200, in the commission or attempted
10 commission of a felony, shall, upon conviction of that
11 felony or attempted felony, in addition and consecutive
12 to the sentence prescribed for the felony or attempted
13 felony, be punished by an additional term of
14 imprisonment in the state prison for 5, 6, or 10 years.

15 (c) Notwithstanding the enhancement set forth in
16 subdivision (a), any person who personally uses a firearm
17 in the commission or attempted commission of a violation
18 of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378,
19 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety
20 Code, shall, upon conviction of that offense and in
21 addition and consecutive to the punishment prescribed
22 for the offense of which he or she has been convicted, be
23 punished by an additional term of imprisonment in the
24 state prison for 3, 4, or 10 years in the court's discretion.
25 The court shall order the imposition of the middle term
26 unless there are circumstances in aggravation or
27 mitigation. The court shall state the reasons for its
28 enhancement choice on the record.

29 (d) The additional term provided by this section may
30 be imposed in cases of assault with a firearm under
31 paragraph (2) of subdivision (a) of Section 245, or assault
32 with a deadly weapon which is a firearm under Section
33 245, or murder if the killing was perpetrated by means of
34 shooting a firearm from a motor vehicle, intentionally at
35 another person outside of the vehicle with the intent to
36 inflict great bodily injury or death.

37 (e) When a person is found to have personally used a
38 firearm, an assault weapon, or a machinegun in the
39 commission or attempted commission of a felony as
40 provided in this section and the firearm, assault weapon,



1 or machinegun is owned by that person, the court shall
2 order that the firearm be deemed a nuisance and
3 disposed of in the manner provided in Section 12028.

4 (f) For purposes of imposing an enhancement under
5 Section 1170.1, the enhancements under this section shall
6 count as one, single enhancement.

7 SEC. 6. Section 12276.1 is added to the Penal Code, to
8 read:

9 12276.1. (a) Notwithstanding Section 12276, “assault
10 weapon” shall also mean any of the following:

11 (1) A semiautomatic, centerfire rifle that has the
12 capacity to accept a detachable magazine and any one of
13 the following:

14 ~~(A) A conspicuously protruding pistol grip.~~

15 (A) *A pistol grip that protrudes conspicuously beneath*
16 *the action of the weapon.*

17 (B) A thumbhole stock.

18 (C) A vertical handgrip.

19 (D) A folding or telescoping stock.

20 (E) A grenade launcher or flare launcher.

21 (F) A threaded barrel capable of accepting a flash
22 suppressor, forward handgrip, or silencer.

23 (2) A semiautomatic, centerfire rifle that has a fixed
24 magazine with the capacity to accept more than 10
25 rounds.

26 (3) A semiautomatic, centerfire rifle that has an
27 overall length of less than 30 inches.

28 (4) A semiautomatic pistol that has the capacity to
29 accept a detachable magazine and any one of the
30 following:

31 (A) A threaded barrel, *capable of accepting a flash*
32 *suppressor, forward handgrip, or silencer.*

33 (B) A second-~~vertical~~ handgrip.

34 (C) A shroud that is attached to, or partially or
35 completely encircles, the barrel that allows the bearer to
36 fire the weapon without burning his or her hand, except
37 a slide that encloses the barrel.

38 (D) The capacity to accept a detachable magazine at
39 some location outside of the pistol grip.



1 (5) A semiautomatic pistol with a fixed magazine that
2 has the capacity to accept more than 10 rounds.

3 (6) A semiautomatic shotgun that has both of the
4 following:

5 (A) A folding or telescoping stock.

6 ~~(B) A conspicuously protruding pistol grip, thumbhole~~

7 (B) *A pistol grip that protrudes conspicuously beneath*
8 *the action of the weapon, thumbhole stock, or vertical*
9 *handgrip.*

10 (7) A semiautomatic shotgun that has the ability to
11 accept a detachable magazine.

12 (8) Any shotgun with a revolving cylinder.

13 (b) “Assault weapon” does not include any antique
14 firearm.

15 (c) The following definitions shall apply under this
16 section:

17 (1) “Magazine” shall mean any ammunition feeding
18 device.

19 (2) “Capacity to accept more than 10 rounds” shall
20 mean capable of accommodating more than 10 rounds,
21 but shall not be construed to include a feeding device that
22 has been permanently altered so that it cannot
23 accommodate more than 10 rounds.

24 (3) “Antique firearm” means any firearm
25 manufactured prior to January 1, 1898.

26 (d) This section shall become operative January 1,
27 2000.

28 SEC. 7. Section 12280 of the Penal Code is amended
29 to read:

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

38 (2) In addition and consecutive to the punishment
39 imposed under paragraph (1), any person who transfers,
40 lends, sells, or gives any assault weapon to a minor in



1 violation of paragraph (1) shall receive an enhancement
2 of one year.

3 (b) Except as provided in Section 12288, and in
4 subdivisions (c) and (d), any person who, within this
5 state, possesses any assault weapon, except as provided in
6 this chapter, is guilty of a public offense and upon
7 conviction shall be punished by imprisonment in the state
8 prison, or in a county jail, not exceeding one year.
9 However, if the person presents proof that he or she
10 lawfully possessed the assault weapon prior to June 1,
11 1989, or prior to the date it was specified as an assault
12 weapon, and has since either registered the firearm and
13 any other lawfully obtained firearm specified by Section
14 12276 or 12276.5 pursuant to Section 12285 or relinquished
15 them pursuant to Section 12288, a first-time violation of
16 this subdivision shall be an infraction punishable by a fine
17 of up to five hundred dollars (\$500), but not less than
18 three hundred fifty dollars (\$350), if the person has
19 otherwise possessed the firearm in compliance with
20 subdivision (c) of Section 12285. In these cases, the
21 firearm shall be returned unless the court finds in the
22 interest of public safety, after notice and hearing, that the
23 assault weapon should be destroyed pursuant to Section
24 12028.

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

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

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

37 (3) The person has not previously been convicted of
38 violating this section.

39 (4) The person was found to be in possession of the
40 assault weapons within one year following the end of the



1 one-year registration period established pursuant to
2 subdivision (a) of Section 12285.

3 (5) The person has since registered the firearms and
4 any other lawfully obtained firearms defined by Section
5 12276.1, pursuant to Section 12285, except as provided for
6 by this section, or relinquished them pursuant to Section
7 12288.

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

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

19 (f) Subdivisions (a) and (b) shall not apply to the sale
20 to, purchase by, or possession of assault weapons by the
21 Department of Justice, police departments, sheriffs'
22 offices, marshals' offices, the Department of Corrections,
23 the Department of the California Highway Patrol, district
24 attorneys' offices, or the military or naval forces of this
25 state or of the United States for use in the discharge of
26 their official duties; nor shall anything in this chapter
27 prohibit the possession or use of assault weapons by sworn
28 members of these agencies *for purposes of law*
29 *enforcement*, whether the officer is on or off duty, or the
30 possession by an individual who is retired from service
31 with a law enforcement agency and who is not otherwise
32 prohibited from possessing an assault weapon *transferred*
33 *to the individual by the agency upon his or her*
34 *retirement*.

35 (g) Subdivision (b) shall not apply to the possession of
36 an assault weapon, as defined in Section 12276, by any
37 person during the 1990 calendar year, during the 90-day
38 period immediately after the date it was specified as an
39 assault weapon pursuant to Section 12276.5, or during the
40 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 (h) 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 (i) 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 (f)* which is disposed of
34 as authorized by the probate court, if the disposition is
35 otherwise permitted by this chapter.

36 (j) 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 (f)*, 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 (k) 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 assault weapon is possessed at any of the
16 following locations:

17 (i) While on a target range that holds a regulatory or
18 business license for the purpose of practicing shooting at
19 that target range.

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

23 (iii) While attending any exhibition, display, or
24 educational project that is about firearms and that is
25 sponsored by, conducted under the auspices of, or
26 approved by a law enforcement agency or a nationally or
27 state recognized entity that fosters proficiency in, or
28 promotes education about, firearms.

29 (2) The return of an assault weapon to the registered
30 possessor which is lent by the same pursuant to paragraph
31 (1).

32 (l) Subdivision (b) shall not apply to the possession of
33 an assault weapon by a person to whom an assault weapon
34 is lent pursuant to subdivision (k).

35 (m) Subdivisions (a) and (b) shall not apply to the
36 possession and importation of an assault weapon into this
37 state by a nonresident if all of the following conditions are
38 met:

39 (1) The person is attending or going directly to or
40 coming directly from an organized competitive match or



1 league competition that involves the use of an assault
2 weapon.

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

5 (i) A target range that holds a regulatory or business
6 license for the purpose of practicing shooting at that
7 target range.

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

11 (3) The match or competition is sponsored by,
12 conducted under the auspices of, or approved by, a law
13 enforcement agency or a nationally or state recognized
14 entity that fosters proficiency in, or promotes education
15 about, firearms.

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

18 (5) The person is 18 years of age or over and is not in
19 a class of persons prohibited from possessing firearms by
20 virtue of Section 12021 or 12021.1 of this code or Section
21 8100 or 8103 of the Welfare and Institutions Code.

22 (n) Subdivision (b) shall not apply to any of the
23 following persons:

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

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

28 (o) Subdivisions (a) and (b) shall not apply to any of
29 the following persons:

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

31 (2) A person acting in accordance with Section 12286
32 or 12290.

33 (p) Subdivision (b) shall not apply to the registered
34 owner of an assault weapon possessing that firearm in
35 accordance with subdivision (c) of Section 12285.

36 (q) As used in this chapter, the date a firearm is an
37 assault weapon is the earliest of the following:

38 (1) The effective date of an amendment to Section
39 12276 that adds the designation of the specified firearm.



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

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

6 SEC. 8. Section 12285 of the Penal Code is amended
7 to read:

8 12285. (a) Any person who lawfully possesses an
9 assault weapon, as defined in Section 12276, prior to June
10 1, 1989, shall register the firearm by January 1, 1991, and
11 any person who lawfully possessed an assault weapon
12 prior to the date it was specified as an assault weapon
13 pursuant to Section 12276.5 shall register the firearm
14 within 90 days with the Department of Justice pursuant
15 to those procedures that the department may establish.
16 Except as provided in subdivision (a) of Section 12280,
17 any person who lawfully possessed an assault weapon
18 prior to the date it was defined as an assault weapon
19 pursuant to Section 12276.1, and which was not specified
20 as an assault weapon under Section 12276 or 12276.5, shall
21 register the firearm within one year of the effective date
22 of Section 12276.1, with the department pursuant to those
23 procedures that the department may establish. The
24 registration shall contain a description of the firearm that
25 identifies it uniquely, including all identification marks,
26 the full name, address, date of birth, and thumbprint of
27 the owner, and any other information that the
28 department may deem appropriate. The department
29 may charge a fee for registration of up to twenty dollars
30 (\$20) per person but not to exceed the actual processing
31 costs of the department. After the department establishes
32 fees sufficient to reimburse the department for
33 processing costs, fees charged shall increase at a rate not
34 to exceed the legislatively approved annual cost-of-living
35 adjustment for the department's budget or as otherwise
36 increased through the Budget Act.

37 (b) (1) Except as provided in paragraph (2), no
38 assault weapon possessed pursuant to this section may be
39 sold or transferred on or after January 1, 1990, to anyone
40 within this state other than to a licensed gun dealer, as



1 defined in subdivision (c) of Section 12290, or as provided
2 in Section 12288. Any person who (A) obtains title to an
3 assault weapon registered under this section *or that was*
4 *possessed pursuant to subdivision (f) of Section 12280* by
5 bequest or intestate succession, or (B) lawfully possessed
6 a firearm subsequently declared to be an assault weapon
7 pursuant to Section 12276.5, or subsequently defined as an
8 assault weapon pursuant to Section 12276.1, shall, within
9 90 days, render the weapon permanently inoperable, sell
10 the weapon to a licensed gun dealer, obtain a permit from
11 the Department of Justice in the same manner as
12 specified in Article 3 (commencing with Section 12230)
13 of Chapter 2, or remove the weapon from this state. A
14 person who lawfully possessed a firearm that was
15 subsequently declared to be an assault weapon pursuant
16 to Section 12276.5 may alternatively register the firearm
17 within 90 days of the declaration issued pursuant to
18 subdivision (f) of Section 12276.5.

19 (2) A person moving into this state, otherwise in lawful
20 possession of an assault weapon, shall do one of the
21 following:

22 (A) Prior to bringing the assault weapon into this state,
23 that person shall first obtain a permit from the
24 Department of Justice in the same manner as specified in
25 Article 3 (commencing with Section 12230) of Chapter 2.

26 (B) The person shall cause the assault weapon to be
27 delivered to a licensed gun dealer, as defined in
28 subdivision (c) of Section 12290, in this state in
29 accordance with Chapter 44 (commencing with Section
30 921) of Title 18 of the United States Code and the
31 regulations issued pursuant thereto. If the person obtains
32 a permit from the Department of Justice in the same
33 manner as specified in Article 3 (commencing with
34 Section 12230) of Chapter 2, the dealer shall redeliver
35 that assault weapon to the person. If the licensed gun
36 dealer, as defined in subdivision (c) of Section 12290, is
37 prohibited from delivering the assault weapon to a person
38 pursuant to this paragraph, the dealer shall possess or
39 dispose of the assault weapon as allowed by this chapter.



1 (c) A person who has registered an assault weapon
2 under this section may possess it only under any of the
3 following conditions unless a permit allowing additional
4 uses is first obtained under Section 12286:

5 (1) At that person's residence, place of business, or
6 other property owned by that person, or on property
7 owned by another with the owner's express permission.

8 (2) While on the premises of a target range of a public
9 or private club or organization organized for the purpose
10 of practicing shooting at targets.

11 (3) While on a target range that holds a regulatory or
12 business license for the purpose of practicing shooting at
13 that target range.

14 (4) While on the premises of a shooting club which is
15 licensed pursuant to the Fish and Game Code.

16 (5) While attending any exhibition, display, or
17 educational project which is about firearms and which is
18 sponsored by, conducted under the auspices of, or
19 approved by a law enforcement agency or a nationally or
20 state recognized entity that fosters proficiency in, or
21 promotes education about, firearms.

22 (6) While on publicly owned land if the possession and
23 use of a firearm described in Section 12276 or 12276.1 is
24 specifically permitted by the managing agency of the
25 land.

26 (7) While transporting the assault weapon between
27 any of the places mentioned in this subdivision, or to any
28 licensed gun dealer, as defined in subdivision (c) of
29 Section 12290, for servicing or repair pursuant to
30 subdivision (b) of Section 12290, if the assault weapon is
31 transported as required by Section 12026.1.

32 (d) No person who is under the age of 18 years, no
33 person who is prohibited from possessing a firearm by
34 Section 12021 or 12021.1, and no person described in
35 Section 8100 or 8103 of the Welfare and Institutions Code
36 may register or possess an assault weapon.

37 (e) The department's registration procedures shall
38 provide the option of joint registration for assault
39 weapons owned by family members residing in the same
40 household.



1 (f) For 90 days following January 1, 1992, a forgiveness
2 period shall exist to allow persons specified in subdivision
3 (b) of Section 12280 to register with the Department of
4 Justice assault weapons that they lawfully possessed prior
5 to June 1, 1989.

6 (g) Any person who registered a firearm as an assault
7 weapon pursuant to the provisions of law in effect prior
8 to January 1, 2000, where the assault weapon is thereafter
9 defined as an assault weapon pursuant to Section 12276.1,
10 shall be deemed to have registered the weapon for
11 purposes of this chapter and shall not be required to
12 reregister the weapon pursuant to this section.

13 (h) Any person who registers his or her assault weapon
14 during the 90-day forgiveness period described in
15 subdivision (f), and any person whose registration form
16 was received by the Department of Justice after January
17 1, 1991, and who was issued a temporary registration prior
18 to the end of the forgiveness period, shall not be charged
19 with a violation of subdivision (b) of Section 12280, if law
20 enforcement becomes aware of that violation only as a
21 result of the registration of the assault weapon. This
22 subdivision shall have no effect upon persons charged
23 with a violation of subdivision (b) of Section 12280 of the
24 Penal Code prior to January 1, 1992, provided that law
25 enforcement was aware of the violation before the
26 weapon was registered.

27 SEC. 9. Section 12289 of the Penal Code is amended
28 to read:

29 12289. (a) The Department of Justice shall conduct a
30 public education and notification program regarding the
31 registration of assault weapons and the definition of the
32 weapons set forth in Section 12276.1. The public
33 education and notification program shall include
34 outreach to local law enforcement agencies and
35 utilization of public service announcements in a variety
36 of media approaches, to ensure maximum publicity of the
37 limited forgiveness period of the registration
38 requirement specified in subdivision (f) of Section 12285
39 and the consequences of nonregistration. The
40 department shall develop posters describing gunowners'



1 responsibilities under this chapter which shall be posted
2 in a conspicuous place in every licensed gun store in the
3 state during the forgiveness period.

4 (b) Any costs incurred by the Department of Justice
5 to implement this section which cannot be absorbed by
6 the department shall be funded from the Dealers' Record
7 of Sale Special Account, as set forth in subdivision (d) of
8 Section 12076, upon appropriation by the Legislature.

9 SEC. 10. It was the original intent of the Legislature
10 in enacting Chapter 19 of the Statutes of 1989 to ban all
11 assault weapons, regardless of their name, model number,
12 or manufacture. It is the purpose of this act to effectively
13 achieve the Legislature's intent to prohibit all assault
14 weapons.

15 SEC. 11. If any phrase, clause, sentence, section, or
16 provision of this act or application thereof is held invalid
17 as to any person or circumstance, such invalidity shall not
18 affect any other phrase, clause, sentence, section,
19 provision, or application of this act, that can be given
20 effect without the invalid phrase, clause, sentence,
21 section, provision, or application and to this end the
22 provisions of the act are declared to be severable.

23 SEC. 12. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

