

AMENDED IN ASSEMBLY JUNE 30, 1999

AMENDED IN SENATE APRIL 6, 1999

AMENDED IN SENATE MARCH 16, 1999

**SENATE BILL**

**No. 23**

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**Introduced by Senators Perata, Alpert, Bowen, and Ortiz,  
and Assembly Member Villaraigosa**

(Principal coauthor: Assembly Member Scott)

**(Coauthor: ~~Senator~~ Senators Karnette and O'Connell)**

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

December 7, 1998

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An act to amend Sections 245, 12001, 12020, 12022, 12022.5,  
12280, 12285, and 12289 of, and to add ~~Section~~ *Sections 12079*  
*and* 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, *except as provided*, 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, CO<sub>2</sub> 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 person licensed pursuant to Section 12071~~  
10 ~~or to a gunsmith for the purposes of maintenance, repair,~~  
11 ~~or modification, any detachable~~ *any* large-capacity  
12 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, of, giving of, lending of, importation~~  
2 ~~into this state of, or purchase of, any detachable~~  
3 large-capacity magazine ~~by, to or by~~ any federal, state,  
4 county, city and county, or city agency that is charged  
5 with the enforcement of any law ~~for use, for use by~~  
6 ~~agency employees~~ in the discharge of their official duties  
7 ~~when on duty and whether on or off duty, and where the~~  
8 use is authorized by the agency and is within the course  
9 and scope of their duties.

10 (20) *The sale to, lending to, transfer to, purchase by,*  
11 *receipt of, or, importation into this state of, a large*  
12 *capacity magazine by a sworn peace officer as defined in*  
13 *Chapter 4.5 (commencing with Section 830) of Title 3 of*  
14 *Part 2 who is authorized to carry a firearm in the course*  
15 *and scope of his or her duties.*

16 (21) The sale ~~to, or purchase of any detachable~~  
17 large-capacity magazine ~~by, to or by~~ a person licensed  
18 pursuant to Section 12071.

19 ~~(21)~~

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

23 (A) The person being loaned the large-capacity  
24 magazine is not prohibited by Section 12021, 12021.1, or  
25 12101 of this code or Section 8100 or 8103 of the Welfare  
26 and Institutions Code from possessing firearms or  
27 ammunition.

28 (B) The loan of the large-capacity magazine occurs at  
29 a place or location where the possession of the  
30 large-capacity magazine is not otherwise prohibited and  
31 the person who lends the large-capacity magazine  
32 remains in the accessible vicinity of the person to whom  
33 the large-capacity magazine is loaned.

34 ~~(22)~~

35 (23) The importation of a large-capacity magazine by  
36 a person who lawfully possessed the large-capacity  
37 magazine in the state prior to January 1, 2000, lawfully  
38 took it out of the state, and is returning to the state with  
39 the large-capacity magazine previously lawfully  
40 possessed in the state.





1 (24) *The lending or giving of any large capacity*  
2 *magazine to a person licensed pursuant to Section 12071,*  
3 *or to a gunsmith, for the purposes of maintenance, repair,*  
4 *or modification of that large capacity magazine.*

5 (25) *The return to its owner of any large capacity*  
6 *magazine by a person specified in paragraph (24).*

7 (26) *The importation into this state of, or sale of, any*  
8 *large capacity magazine by a person who has been issued*  
9 *a permit to engage in those activities pursuant to Section*  
10 *12079, when those activities are in accordance with the*  
11 *terms and conditions of that permit.*

12 (27) *The sale of, giving of, lending of, importation into*  
13 *this state of, or purchase of, any large capacity magazine,*  
14 *to or by entities that operate armored vehicle businesses*  
15 *pursuant to the laws of this state.*

16 (28) *The lending of large capacity magazines by the*  
17 *entities specified in paragraph (28) to their authorized*  
18 *employees, while in the course and scope of their*  
19 *employment for purposes that pertain to the entity's*  
20 *armored vehicle business.*

21 (29) *The return of those large capacity magazines to*  
22 *those entities specified in paragraph (27) by those*  
23 *employees specified in paragraph (28).*

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

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

29 (B) A firearm which has an overall length of less than  
30 26 inches and which is designed or redesigned to fire a  
31 fixed shotgun shell.

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

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

39 (E) Any part, or combination of parts, designed and  
40 intended to convert a device into a device defined in





1 subparagraphs (A) to (C), inclusive, or any combination  
2 of parts from which a device defined in subparagraphs  
3 (A) to (C), inclusive, can be readily assembled if those  
4 parts are in the possession or under the control of the  
5 same person.

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

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

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

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

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

18 (E) Any part, or combination of parts, designed and  
19 intended to convert a device into a device defined in  
20 subparagraphs (A) to (C), inclusive, or any combination  
21 of parts from which a device defined in subparagraphs  
22 (A) to (C), inclusive, may be readily assembled if those  
23 parts are in the possession or under the control of the  
24 same person.

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

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

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



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

5 (7) As used in this section, “metal knuckles” means  
6 any device or instrument made wholly or partially of  
7 metal which is worn for purposes of offense or defense in  
8 or on the hand and which either protects the wearer’s  
9 hand while striking a blow or increases the force of impact  
10 from the blow or injury to the individual receiving the  
11 blow. The metal contained in the device may help  
12 support the hand or fist, provide a shield to protect it, or  
13 consist of projections or studs which would contact the  
14 individual receiving a blow.

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

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

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

25 (B) It is designed and intended to allow the firing of  
26 the enclosed firearm by external controls while the  
27 firearm is in the container.

28 (C) It is not readily recognizable as containing a  
29 firearm.

30 “Camouflaging firearm container” does not include  
31 any camouflaging covering used while engaged in lawful  
32 hunting or while going to or returning from a lawful  
33 hunting expedition.

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

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



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

5 (C) No tax was paid on the weapon or device nor was  
6 an exemption from paying tax on that weapon or device  
7 granted under Section 4181 and subchapters F  
8 (commencing with Section 4216) and G (commencing  
9 with Section 4221) of Chapter 32 of Title 26 of the United  
10 States Code, as amended, and the regulations issued  
11 pursuant thereto.

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

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

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

24 (13) As used in this section, a “belt buckle knife” is a  
25 knife which is made an integral part of a belt buckle and  
26 consists of a blade with a length of at least 2<sup>1</sup>/<sub>2</sub> inches.

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

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

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

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



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

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

13 (20) As used in this section, a “rifle” means a weapon  
14 designed or redesigned, made or remade, and intended  
15 to be fired from the shoulder and designed or redesigned  
16 and made or remade to use the energy of the explosive in  
17 a fixed cartridge to fire only a single projectile through a  
18 rifled bore for each single pull of the trigger.

19 (21) As used in this section, a “shotgun” means a  
20 weapon designed or redesigned, made or remade, and  
21 intended to be fired from the shoulder and designed or  
22 redesigned and made or remade to use the energy of the  
23 explosive in a fixed shotgun shell to fire through a smooth  
24 bore either a number of projectiles (ball shot) or a single  
25 projectile for each pull of the trigger.

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

29 (A) When, after removal of grips, stocks, and  
30 magazines, it is not as detectable as the Security  
31 Exemplar, by walk-through metal detectors calibrated  
32 and operated to detect the Security Exemplar.

33 (B) When any major component of which, when  
34 subjected to inspection by the types of X-ray machines  
35 commonly used at airports, does not generate an image  
36 that accurately depicts the shape of the component.  
37 Barium sulfate or other compounds may be used in the  
38 fabrication of the component.

39 (C) For purposes of this paragraph, the terms  
40 “firearm,” “major component,” and “Security Exemplar”



1 have the same meanings as those terms are defined in  
2 Section 922 of Title 18 of the United States Code.

3 All firearm detection equipment newly installed in  
4 nonfederal public buildings in this state shall be of a type  
5 identified by either the United States Attorney General,  
6 the Secretary of Transportation, or the Secretary of the  
7 Treasury, as appropriate, as available state-of-the-art  
8 equipment capable of detecting an undetectable firearm,  
9 as defined, while distinguishing innocuous metal objects  
10 likely to be carried on one's person sufficient for  
11 reasonable passage of the public.

12 (23) As used in this section, a "multiburst trigger  
13 activator" means one of the following devices:

14 (A) A device designed or redesigned to be attached  
15 to a semiautomatic firearm which allows the firearm to  
16 discharge two or more shots in a burst by activating the  
17 device.

18 (B) A manual or power-driven trigger activating  
19 device constructed and designed so that when attached  
20 to a semiautomatic firearm it increases the rate of fire of  
21 that firearm.

22 (24) As used in this section, a "dirk" or "dagger" means  
23 a knife or other instrument with or without a handguard  
24 that is capable of ready use as a stabbing weapon that may  
25 inflict great bodily injury or death. A nonlocking folding  
26 knife, a folding knife that is not prohibited by Section  
27 653k, or a pocketknife is capable of ready use as a stabbing  
28 weapon that may inflict great bodily injury or death only  
29 if the blade of the knife is exposed and locked into  
30 position.

31 (25) As used in this section, "large-capacity magazine"  
32 means any—~~detachable~~ ammunition feeding device with  
33 the capacity to accept more than 10 rounds, but shall not  
34 be construed to include a feeding device that has been  
35 permanently altered so that it cannot accommodate more  
36 than 10 rounds nor shall it include any .22 caliber tube  
37 ammunition feeding device.

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



1 SEC. 4. Section 12022 of the Penal Code is amended  
2 to read:

3 12022. (a) (1) Except as provided in subdivisions (c)  
4 and (d), any person who is armed with a firearm in the  
5 commission or attempted commission of a felony shall,  
6 upon conviction of that felony or attempted felony, in  
7 addition and consecutive to the punishment prescribed  
8 for the felony or attempted felony of which he or she has  
9 been convicted, be punished by an additional term of one  
10 year, unless the arming is an element of the offense of  
11 which he or she was convicted. This additional term shall  
12 apply to any person who is a principal in the commission  
13 or attempted commission of a felony if one or more of the  
14 principals is armed with a firearm, whether or not the  
15 person is personally armed with a firearm.

16 (2) Except as provided in subdivision (c), and  
17 notwithstanding subdivision (d), if the firearm is an  
18 assault weapon, as defined in Section 12276 or Section  
19 12276.1, or a machinegun, as defined in Section 12200, the  
20 additional term described in this subdivision shall be  
21 three years whether or not the arming is an element of  
22 the offense of which he or she was convicted. The  
23 additional term provided in this paragraph shall apply to  
24 any person who is a principal in the commission or  
25 attempted commission of a felony if one or more of the  
26 principals is armed with an assault weapon or  
27 machinegun whether or not the person is personally  
28 armed with an assault weapon or machinegun.

29 (b) (1) Any person who personally uses a deadly or  
30 dangerous weapon in the commission or attempted  
31 commission of a felony shall, upon conviction of that  
32 felony or attempted felony, in addition and consecutive  
33 to the punishment prescribed for the felony or attempted  
34 felony of which he or she has been convicted, be punished  
35 by an additional term of one year, unless use of a deadly  
36 or dangerous weapon is an element of the offense of  
37 which he or she was convicted.

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



1 (3) When a person is found to have personally used a  
2 deadly or dangerous weapon in the commission or  
3 attempted commission of a felony as provided in this  
4 subdivision and the weapon is owned by that person, the  
5 court shall order that the weapon be deemed a nuisance  
6 and disposed of in the manner provided in Section 12028.

7 (c) Notwithstanding the enhancement set forth in  
8 subdivision (a), any person who is personally armed with  
9 a firearm in the commission or attempted commission of  
10 a violation of Section 11351, 11351.5, 11352, 11366.5,  
11 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the  
12 Health and Safety Code, shall, upon conviction of that  
13 offense and in addition and consecutive to the  
14 punishment prescribed for that offense of which he or she  
15 has been convicted, be punished by an additional term of  
16 imprisonment in the state prison for three, four, or five  
17 years in the court's discretion. The court shall order the  
18 middle term unless there are circumstances in  
19 aggravation or mitigation. The court shall state the  
20 reasons for its enhancement choice on the record at the  
21 time of the sentence.

22 (d) Notwithstanding the enhancement set forth in  
23 subdivision (a), any person who is not personally armed  
24 with a firearm who, knowing that another principal is  
25 personally armed with a firearm, is a principal in the  
26 commission or attempted commission of an offense  
27 specified in subdivision (c), shall, upon conviction of that  
28 offense, be punished by an additional term of one, two, or  
29 three years in the court's discretion. The court shall order  
30 the 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 (e) For purposes of imposing an enhancement under  
35 Section 1170.1, the enhancements under this section shall  
36 count as one, single enhancement.

37 (f) Notwithstanding any other provision of law, the  
38 court may strike the additional punishment for the  
39 enhancements provided in subdivision (c) or (d) in an  
40 unusual case where the interests of justice would best be





1 served, if the court specifies on the record and enters into  
2 the minutes the circumstances indicating that the  
3 interests of justice would best be served by that  
4 disposition.

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

7 12022.5. (a) (1) Except as provided in subdivisions  
8 (b) and (c), any person who personally uses a firearm in  
9 the commission or attempted commission of a felony  
10 shall, upon conviction of that felony or attempted felony,  
11 in addition and consecutive to the punishment  
12 prescribed for the felony or attempted felony of which he  
13 or she has been convicted, be punished by an additional  
14 term of imprisonment in the state prison for 3, 4, or 10  
15 years, unless use of a firearm is an element of the offense  
16 of which he or she was convicted.

17 (2) If the person described in paragraph (1) has been  
18 convicted of carjacking or attempted carjacking, the  
19 additional term shall be 4, 5, or 10 years. The court shall  
20 order imposition of the middle term unless there are  
21 circumstances in aggravation or mitigation. The court  
22 shall state its reasons for its enhancement choice on the  
23 record at the time of sentencing.

24 (b) (1) Notwithstanding subdivision (a), any person  
25 who is convicted of a felony or an attempt to commit a  
26 felony, including murder or attempted murder, in which  
27 that person discharged a firearm at an occupied motor  
28 vehicle which caused great bodily injury or death to the  
29 person of another, shall, upon conviction of that felony or  
30 attempted felony, in addition and consecutive to the  
31 sentence prescribed for the felony or attempted felony,  
32 be punished by an additional term of imprisonment in the  
33 state prison for 5, 6, or 10 years.

34 (2) Notwithstanding subdivision (a), any person who  
35 personally uses an assault weapon, as specified in Section  
36 12276 or Section 12276.1, or a machinegun, as defined in  
37 Section 12200, in the commission or attempted  
38 commission of a felony, shall, upon conviction of that  
39 felony or attempted felony, in addition and consecutive  
40 to the sentence prescribed for the felony or attempted





1 felony, be punished by an additional term of  
2 imprisonment in the state prison for 5, 6, or 10 years.

3 (c) Notwithstanding the enhancement set forth in  
4 subdivision (a), any person who personally uses a firearm  
5 in the commission or attempted commission of a violation  
6 of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378,  
7 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety  
8 Code, shall, upon conviction of that offense and in  
9 addition and consecutive to the punishment prescribed  
10 for the offense of which he or she has been convicted, be  
11 punished by an additional term of imprisonment in the  
12 state prison for 3, 4, or 10 years in the court's discretion.  
13 The court shall order the imposition of the middle term  
14 unless there are circumstances in aggravation or  
15 mitigation. The court shall state the reasons for its  
16 enhancement choice on the record.

17 (d) The additional term provided by this section may  
18 be imposed in cases of assault with a firearm under  
19 paragraph (2) of subdivision (a) of Section 245, or assault  
20 with a deadly weapon which is a firearm under Section  
21 245, or murder if the killing was perpetrated by means of  
22 shooting a firearm from a motor vehicle, intentionally at  
23 another person outside of the vehicle with the intent to  
24 inflict great bodily injury or death.

25 (e) When a person is found to have personally used a  
26 firearm, an assault weapon, or a machinegun in the  
27 commission or attempted commission of a felony as  
28 provided in this section and the firearm, assault weapon,  
29 or machinegun is owned by that person, the court shall  
30 order that the firearm be deemed a nuisance and  
31 disposed of in the manner provided in Section 12028.

32 (f) For purposes of imposing an enhancement under  
33 Section 1170.1, the enhancements under this section shall  
34 count as one, single enhancement.

35 SEC. 6. *Section 12079 is added to the Penal Code, to*  
36 *read:*

37 *12079. (a) Upon a showing that good cause exists, the*  
38 *Department of Justice may issue permits for the*  
39 *possession, transportation, or sale between a person*



1 licensed pursuant to Section 12071 and an out-of-state  
2 client, of large capacity magazines.

3 (b) For purposes of this section, “large capacity  
4 magazine” shall have the same meaning as that set forth  
5 in paragraph (25) of subdivision (c) of Section 12020.

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

8 12276.1. (a) Notwithstanding Section 12276, “assault  
9 weapon” shall also mean any of the following:

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

13 (A) A pistol grip that protrudes conspicuously beneath  
14 the action of the weapon.

15 (B) A thumbhole stock.

16 (C) A vertical handgrip.

17 (D) A folding or telescoping stock.

18 (E) A grenade launcher or flare launcher.

19 (F) ~~A threaded barrel capable of accepting a flash  
20 suppressor, forward handgrip, or silencer.~~ *flash*  
21 *suppressor.*

22 (G) *A forward handgrip.*

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 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 pistol grip that protrudes conspicuously beneath  
7 the action of the weapon, thumbhole stock, or vertical  
8 handgrip.

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

11 (8) Any shotgun with a revolving cylinder.

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

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

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

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

23 (3) “Antique firearm” means any firearm  
24 manufactured prior to January 1, ~~1898~~ 1899.

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

27 ~~SEC. 7.~~

28 *SEC. 8.* 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 Youth and Adult Corrections Agency*, the  
24 Department of the California Highway Patrol, district  
25 attorneys' offices, or the military or naval forces of this  
26 state or of the United States for use in the discharge of  
27 their official duties; ~~nor shall anything in this chapter~~  
28 ~~prohibit the possession or use of assault weapons by sworn~~  
29 ~~members of these agencies for purposes of law~~  
30 ~~enforcement, whether the officer is on or off duty, or the~~  
31 ~~possession by an individual who is retired from service~~  
32 ~~with a law enforcement agency and who is not otherwise~~  
33 ~~prohibited from possessing an assault weapon transferred~~  
34 ~~to the individual by the agency upon his or her~~  
35 ~~retirement.~~

36 (g).

37 (g) *Subdivision (b) shall not prohibit the possession or*  
38 *use of assault weapons by sworn members of those*  
39 *agencies specified in subdivision (f) for law enforcement*  
40 *purposes, whether on or off duty.*



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

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

8 (j) Subdivision (b) shall not apply to the possession of  
9 an assault weapon, as defined in Section 12276, by any  
10 person during the 1990 calendar year, during the 90-day  
11 period immediately after the date it was specified as an  
12 assault weapon pursuant to Section 12276.5, or during the  
13 one-year period after the date it was defined as an assault  
14 weapon pursuant to Section 12276.1, if all of the following  
15 are applicable:

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

18 (2) The person lawfully possessed the particular  
19 assault weapon described in paragraph (1) prior to June  
20 1, 1989, if the weapon is specified as an assault weapon  
21 pursuant to Section 12276, or prior to the date it was  
22 specified as an assault weapon pursuant to Section  
23 12276.5, or prior to the date it was defined as an assault  
24 weapon pursuant to Section 12276.1.

25 (3) The person is otherwise in compliance with this  
26 chapter.

27 ~~(h)~~

28 (k) Subdivisions (a) and (b) shall not apply to the  
29 manufacture by persons who are issued permits pursuant  
30 to Section 12287 of assault weapons for sale to the  
31 following:

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

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

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

39 (4) Federal military and law enforcement agencies.



1 (5) Law enforcement and military agencies of other  
2 states.

3 (6) Foreign governments and agencies approved by  
4 the United States State Department.

5 ~~(j)~~

6 (l) Subdivision (a) shall not apply to a person who is  
7 the executor or administrator of an estate that includes an  
8 assault weapon registered under Section 12285 or that was  
9 possessed pursuant to subdivision—~~(f)~~ (g) or (i) which is  
10 disposed of as authorized by the probate court, if the  
11 disposition is otherwise permitted by this chapter.

12 ~~(j)~~

13 (m) Subdivision (b) shall not apply to a person who is  
14 the executor or administrator of an estate that includes an  
15 assault weapon registered under Section 12285 or that was  
16 possessed pursuant to subdivision—~~(f)~~ (g) or (i), if the  
17 assault weapon is possessed at a place set forth in  
18 paragraph (1) of subdivision (c) of Section 12285 or as  
19 authorized by the probate court.

20 ~~(k)~~

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

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

25 (A) The person to whom the assault weapon is lent is  
26 18 years of age or over and is not in a class of persons  
27 prohibited from possessing firearms by virtue of Section  
28 12021 or 12021.1 of this code or Section 8100 or 8103 of the  
29 Welfare and Institutions Code.

30 (B) The person to whom the assault weapon is lent  
31 remains in the presence of the registered possessor of the  
32 assault weapon.

33 (C) The assault weapon is possessed at any of the  
34 following locations:

35 (i) While on a target range that holds a regulatory or  
36 business license for the purpose of practicing shooting at  
37 that target range.

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



1 (iii) While attending any exhibition, display, or  
2 educational project that is about firearms and that is  
3 sponsored by, conducted under the auspices of, or  
4 approved by a law enforcement agency or a nationally or  
5 state recognized entity that fosters proficiency in, or  
6 promotes education about, firearms.

7 (2) The return of an assault weapon to the registered  
8 possessor which is lent by the same pursuant to paragraph  
9 (1).

10 ~~(f)~~

11 (o) Subdivision (b) shall not apply to the possession of  
12 an assault weapon by a person to whom an assault weapon  
13 is lent pursuant to subdivision ~~(k)~~ (n).

14 ~~(m)~~

15 (p) Subdivisions (a) and (b) shall not apply to the  
16 possession and importation of an assault weapon into this  
17 state by a nonresident if all of the following conditions are  
18 met:

19 (1) The person is attending or going directly to or  
20 coming directly from an organized competitive match or  
21 league competition that involves the use of an assault  
22 weapon.

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

25 (i) A target range that holds a regulatory or business  
26 license for the purpose of practicing shooting at that  
27 target range.

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

31 (3) The match or competition is sponsored by,  
32 conducted under the auspices of, or approved by, a law  
33 enforcement agency or a nationally or state recognized  
34 entity that fosters proficiency in, or promotes education  
35 about, firearms.

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

38 (5) The person is 18 years of age or over and is not in  
39 a class of persons prohibited from possessing firearms by





1 virtue of Section 12021 or 12021.1 of this code or Section  
2 8100 or 8103 of the Welfare and Institutions Code.

3 ~~(n)~~

4 (q) Subdivision (b) shall not apply to any of the  
5 following persons:

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

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

10 ~~(o)~~

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

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

14 (2) A person acting in accordance with Section 12286  
15 or 12290.

16 ~~(p)~~

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

20 ~~(q)~~

21 (t) *Subdivision (a) shall not apply to the importation  
22 into this state of an assault weapon by the registered  
23 owner of that assault weapon, if it is in accordance with  
24 the provisions of subdivision (c) of Section 12285.*

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

27 (1) The effective date of an amendment to Section  
28 12276 that adds the designation of the specified firearm.

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

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

34 ~~SEC. 8.~~

35 *SEC. 9.* Section 12285 of the Penal Code is amended  
36 to read:

37 12285. (a) Any person who lawfully possesses an  
38 assault weapon, as defined in Section 12276, prior to June  
39 1, 1989, shall register the firearm by January 1, 1991, and  
40 any person who lawfully possessed an assault weapon



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

26 (b) (1) Except as provided in paragraph (2), no  
27 assault weapon possessed pursuant to this section may be  
28 sold or transferred on or after January 1, 1990, to anyone  
29 within this state other than to a licensed gun dealer, as  
30 defined in subdivision (c) of Section 12290, or as provided  
31 in Section 12288. Any person who (A) obtains title to an  
32 assault weapon registered under this section or that was  
33 possessed pursuant to subdivision—~~(f)~~ (g) or (i) of Section  
34 12280 by bequest or intestate succession, or (B) lawfully  
35 possessed a firearm subsequently declared to be an assault  
36 weapon pursuant to Section 12276.5, or subsequently  
37 defined as an assault weapon pursuant to Section 12276.1,  
38 shall, within 90 days, render the weapon permanently  
39 inoperable, sell the weapon to a licensed gun dealer,  
40 obtain a permit from the Department of Justice in the



1 same manner as specified in Article 3 (commencing with  
2 Section 12230) of Chapter 2, or remove the weapon from  
3 this state. A person who lawfully possessed a firearm that  
4 was subsequently declared to be an assault weapon  
5 pursuant to Section 12276.5 may alternatively register the  
6 firearm within 90 days of the declaration issued pursuant  
7 to subdivision (f) of Section 12276.5.

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

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

15 (B) The person shall cause the assault weapon to be  
16 delivered to a licensed gun dealer, as defined in  
17 subdivision (c) of Section 12290, in this state in  
18 accordance with Chapter 44 (commencing with Section  
19 921) of Title 18 of the United States Code and the  
20 regulations issued pursuant thereto. If the person obtains  
21 a permit from the Department of Justice in the same  
22 manner as specified in Article 3 (commencing with  
23 Section 12230) of Chapter 2, the dealer shall redeliver  
24 that assault weapon to the person. If the licensed gun  
25 dealer, as defined in subdivision (c) of Section 12290, is  
26 prohibited from delivering the assault weapon to a person  
27 pursuant to this paragraph, the dealer shall possess or  
28 dispose of the assault weapon as allowed by this chapter.

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

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

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



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

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

6 (5) While attending any exhibition, display, or  
7 educational project which is about firearms and which is  
8 sponsored by, conducted under the auspices of, or  
9 approved by a law enforcement agency or a nationally or  
10 state recognized entity that fosters proficiency in, or  
11 promotes education about, firearms.

12 (6) While on publicly owned land if the possession and  
13 use of a firearm described in Section 12276 or 12276.1 is  
14 specifically permitted by the managing agency of the  
15 land.

16 (7) While transporting the assault weapon between  
17 any of the places mentioned in this subdivision, or to any  
18 licensed gun dealer, as defined in subdivision (c) of  
19 Section 12290, for servicing or repair pursuant to  
20 subdivision (b) of Section 12290, if the assault weapon is  
21 transported as required by Section 12026.1.

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

27 (e) The department's registration procedures shall  
28 provide the option of joint registration for assault  
29 weapons owned by family members residing in the same  
30 household.

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

36 (g) Any person who registered a firearm as an assault  
37 weapon pursuant to the provisions of law in effect prior  
38 to January 1, 2000, where the assault weapon is thereafter  
39 defined as an assault weapon pursuant to Section 12276.1,  
40 shall be deemed to have registered the weapon for



1 purposes of this chapter and shall not be required to  
2 reregister the weapon pursuant to this section.

3 (h) Any person who registers his or her assault weapon  
4 during the 90-day forgiveness period described in  
5 subdivision (f), and any person whose registration form  
6 was received by the Department of Justice after January  
7 1, 1991, and who was issued a temporary registration prior  
8 to the end of the forgiveness period, shall not be charged  
9 with a violation of subdivision (b) of Section 12280, if law  
10 enforcement becomes aware of that violation only as a  
11 result of the registration of the assault weapon. This  
12 subdivision shall have no effect upon persons charged  
13 with a violation of subdivision (b) of Section 12280 of the  
14 Penal Code prior to January 1, 1992, provided that law  
15 enforcement was aware of the violation before the  
16 weapon was registered.

17 ~~SEC. 9.~~

18 *SEC. 10. Section 12287 of the Penal Code is amended*  
19 *to read:*

20 12287. (a) The Department of Justice may, upon a  
21 finding of good cause, issue permits for the manufacture  
22 of assault weapons to federally licensed manufacturers of  
23 firearms for the sale to, purchase by, or possession of  
24 assault weapons by, any of the following:

25 (1) The agencies listed in subdivision—~~(d)~~ (f) of Section  
26 12280.

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

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

33 (4) Federal law enforcement and military agencies.

34 (5) Law enforcement and military agencies of other  
35 states.

36 (6) Foreign governments and agencies approved by  
37 the United States State Department.

38 (b) Application for the permits, the keeping and  
39 inspection thereof, and the revocation of permits shall be



1 undertaken in the same manner as specified in Article 3  
2 (commencing with Section 12230) of Chapter 2.

3 *SEC. 11.* Section 12289 of the Penal Code is amended  
4 to read:

5 12289. (a) The Department of Justice shall conduct a  
6 public education and notification program regarding the  
7 registration of assault weapons and the definition of the  
8 weapons set forth in Section 12276.1. The public  
9 education and notification program shall include  
10 outreach to local law enforcement agencies and  
11 utilization of public service announcements in a variety  
12 of media approaches, to ensure maximum publicity of the  
13 limited forgiveness period of the registration  
14 requirement specified in subdivision (f) of Section 12285  
15 and the consequences of nonregistration. The  
16 department shall develop posters describing gunowners'  
17 responsibilities under this chapter which shall be posted  
18 in a conspicuous place in every licensed gun store in the  
19 state during the forgiveness period.

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

25 ~~SEC. 10.~~

26 *SEC. 12.* It was the original intent of the Legislature  
27 in enacting Chapter 19 of the Statutes of 1989 to ban all  
28 assault weapons, regardless of their name, model number,  
29 or manufacture. It is the purpose of this act to effectively  
30 achieve the Legislature's intent to prohibit all assault  
31 weapons.

32 ~~SEC. 11.~~

33 *SEC. 13.* If any phrase, clause, sentence, section, or  
34 provision of this act or application thereof is held invalid  
35 as to any person or circumstance, such invalidity shall not  
36 affect any other phrase, clause, sentence, section,  
37 provision, or application of this act, that can be given  
38 effect without the invalid phrase, clause, sentence,  
39 section, provision, or application and to this end the  
40 provisions of the act are declared to be severable.



1 ~~SEC. 12.~~

2 *SEC. 14.* No reimbursement is required by this act  
3 pursuant to Section 6 of Article XIII B of the California  
4 Constitution because the only costs that may be incurred  
5 by a local agency or school district will be incurred  
6 because this act creates a new crime or infraction,  
7 eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section  
9 17556 of the Government Code, or changes the definition  
10 of a crime within the meaning of Section 6 of Article  
11 XIII B of the California Constitution.

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