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AMENDED IN SENATE MARCH 16, 1999

SENATE BILL

No. 23

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

(Principal coauthor: Assembly Member Scott)

(Coauthor: Senators Karnette and O'Connell)

(Coauthors: Assembly Members Alquist, Aroner, Bock, Dutra, Floyd, Gallegos, Honda, Keeley, Knox, Kuehl, Machado, Mazzone, Migden, Romero, 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 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 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 *additional* 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) *This bill would incorporate additional changes in Section 12020 of the Penal Code proposed by SB 359, to be operative if SB 359 and this bill are both enacted and become effective on or before January 1, 2000, and this bill is enacted last.*



(9) 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



1 reasonably should know that the victim is a peace officer
2 or firefighter engaged in the performance of his or her
3 duties, when the peace officer or firefighter is engaged in
4 the performance of his or her duties, shall be punished by
5 imprisonment in the state prison for three, four, or five
6 years.

7 (d) (1) Any person who commits an assault with a
8 firearm upon the person of a peace officer or firefighter,
9 and who knows or reasonably should know that the victim
10 is a peace officer or firefighter engaged in the
11 performance of his or her duties, when the peace officer
12 or firefighter is engaged in the performance of his or her
13 duties, shall be punished by imprisonment in the state
14 prison for four, six, or eight years.

15 (2) Any person who commits an assault upon the
16 person of a peace officer or firefighter with a
17 semiautomatic firearm and who knows or reasonably
18 should know that the victim is a peace officer or
19 firefighter engaged in the performance of his or her
20 duties, when the peace officer or firefighter is engaged in
21 the performance of his or her duties, shall be punished by
22 imprisonment in the state prison for five, seven, or nine
23 years.

24 (3) Any person who commits an assault with a
25 machinegun, as defined in Section 12200, or an assault
26 weapon, as defined in Section 12276 or 12276.1, upon the
27 person of a peace officer or firefighter, and who knows or
28 reasonably should know that the victim is a peace officer
29 or firefighter engaged in the performance of his or her
30 duties, shall be punished by imprisonment in the state
31 prison for 6, 9, or 12 years.

32 (e) When a person is convicted of a violation of this
33 section in a case involving use of a deadly weapon or
34 instrument or firearm, and the weapon or instrument or
35 firearm is owned by that person, the court shall order that
36 the weapon or instrument or firearm be deemed a
37 nuisance, and it shall be confiscated and disposed of in the
38 manner provided by Section 12028.



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

4 SEC. 2. Section 12001 of the Penal Code is amended
5 to read:

6 12001. (a) As used in this title, the terms “pistol,”
7 “revolver,” and “firearm capable of being concealed
8 upon the person” shall apply to and include any device
9 designed to be used as a weapon, from which is expelled
10 a projectile by the force of any explosion, or other form
11 of combustion, and that has a barrel less than 16 inches in
12 length. These terms also include any device that has a
13 barrel 16 inches or more in length which is designed to be
14 interchanged with a barrel less than 16 inches in length.

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

19 (c) As used in Sections 12021, 12021.1, 12070, 12071,
20 12072, 12073, 12078, and 12101 of this code, and Sections
21 8100, 8101, and 8103 of the Welfare and Institutions Code,
22 the term “firearm” includes the frame or receiver of the
23 weapon.

24 (d) For the purposes of Sections 12025 and 12031, the
25 term “firearm” also shall include any rocket, rocket
26 propelled projectile launcher, or similar device
27 containing any explosive or incendiary material whether
28 or not the device is designed for emergency or distress
29 signaling purposes.

30 (e) For purposes of Sections 12070, 12071, and
31 paragraph (7) of subdivision (a), and subdivisions (b),
32 (c), (d), and (f) of Section 12072, the term “firearm” does
33 not include an unloaded firearm that is defined as an
34 “antique firearm” in Section 921(a)(16) of Title 18 of the
35 United States Code.

36 (f) Nothing shall prevent a device defined as a
37 “pistol,” “revolver,” or “firearm capable of being
38 concealed upon the person” from also being found to be
39 a short-barreled shotgun or a short-barreled rifle, as
40 defined in Section 12020.



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

6 (h) As used in this title, “wholesaler” means any
7 person who is licensed as a dealer pursuant to Chapter 44
8 (commencing with Section 921) of Title 18 of the United
9 States Code and the regulations issued pursuant thereto
10 who sells, transfers, or assigns firearms, or parts of
11 firearms, to persons who are licensed as manufacturers,
12 importers, or gunsmiths pursuant to Chapter 44
13 (commencing with Section 921) of Title 18 of the United
14 States Code, or persons licensed pursuant to Section
15 12071, and includes persons who receive finished parts of
16 firearms and assemble them into completed or partially
17 completed firearms in furtherance of that purpose.

18 “Wholesaler” shall not include a manufacturer,
19 importer, or gunsmith who is licensed to engage in those
20 activities pursuant to Chapter 44 (commencing with
21 Section 921) of Title 18 of the United States Code or a
22 person licensed pursuant to Section 12071 and the
23 regulations issued pursuant thereto. A wholesaler also
24 does not include those persons dealing exclusively in
25 grips, stocks, and other parts of firearms that are not
26 frames or receivers thereof.

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

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

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

35 (3) The initial completion and transmission to the
36 department of the record of electronic or telephonic
37 transfer by the dealer on the purchaser, transferee, or
38 person being loaned the firearm as required by
39 subdivision (c) of Section 12076.



1 (j) For purposes of Section 12023, a firearm shall be
2 deemed to be “loaded” whenever both the firearm and
3 the unexpended ammunition capable of being
4 discharged from the firearm are in the immediate
5 possession of the same person.

6 (k) For purposes of Sections 12021, 12021.1, 12025,
7 12070, 12072, 12073, 12078, and 12101 of this code, and
8 Sections 8100, 8101, and 8103 of the Welfare and
9 Institutions Code, notwithstanding the fact that the term
10 “any firearm” may be used in those sections, each firearm
11 or the frame or receiver of the same shall constitute a
12 distinct and separate offense under those sections.

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

16 (m) Each application that requires any firearms
17 eligibility determination involving the issuance of any
18 license, permit, or certificate pursuant to this title shall
19 include two copies of the applicant’s fingerprints on
20 forms prescribed by the Department of Justice. One copy
21 of the fingerprints may be submitted to the United States
22 Federal Bureau of Investigation.

23 (n) As used in this chapter, a “personal handgun
24 importer” means an individual who meets all of the
25 following criteria:

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

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

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

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

37 (5) He or she acquired that pistol, revolver, or other
38 firearm capable of being concealed upon the person
39 outside of California.



1 (6) He or she moves into this state on or after January
2 1, 1998, as a resident of this state.

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

6 (8) The pistol, revolver, or other firearm capable of
7 being concealed upon the person was not delivered to
8 him or her by a person licensed pursuant to Section 12071
9 who delivered that firearm following the procedures set
10 forth in Section 12071 and subdivision (c) of Section
11 12072.

12 (9) He or she, while a resident of this state, had not
13 previously reported his or her ownership of that pistol,
14 revolver, or other firearm capable of being concealed
15 upon the person to the Department of Justice in a manner
16 prescribed by the department that included information
17 concerning him or her and a description of the firearm.

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

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

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

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

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

29 (1) Except as provided in paragraph (2), residency
30 shall be determined in the same manner as is the case for
31 establishing residency pursuant to Section 12505 of the
32 Vehicle Code.

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

37 SEC. 3. Section 12020 of the Penal Code is amended
38 to read:



1 12020. (a) Any person in this state who does any of
2 the following is punishable by imprisonment in a county
3 jail not exceeding one year or in the state prison:

4 (1) Manufactures or causes to be manufactured,
5 imports into the state, keeps for sale, or offers or exposes
6 for sale, or who gives, lends, or possesses any cane gun or
7 wallet gun, any undetectable firearm, any firearm which
8 is not immediately recognizable as a firearm, any
9 camouflaging firearm container, any ammunition which
10 contains or consists of any fléchette dart, any bullet
11 containing or carrying an explosive agent, any ballistic
12 knife, any multiburst trigger activator, any nunchaku,
13 any short-barreled shotgun, any short-barreled rifle, any
14 metal knuckles, any belt buckle knife, any leaded cane,
15 any zip gun, any shuriken, any unconventional pistol, any
16 lipstick case knife, any cane sword, any shobi-zue, any air
17 gauge knife, any writing pen knife, any metal military
18 practice handgrenade or metal replica handgrenade, or
19 any instrument or weapon of the kind commonly known
20 as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

21 (2) Commencing January 1, 2000, manufactures or
22 causes to be manufactured, imports into the state, keeps
23 for sale, or offers or exposes for sale, or who gives, or lends,
24 any large-capacity magazine.

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

27 (4) Carries concealed upon his or her person any dirk
28 or dagger.

29 However, a first offense involving any metal military
30 practice handgrenade or metal replica handgrenade shall
31 be punishable only as an infraction unless the offender is
32 an active participant in a criminal street gang as defined
33 in the Street Terrorism and Enforcement and Prevention
34 Act (Chapter 11 (commencing with Section 186.29) of
35 Title 7 of Part 1). A bullet containing or carrying an
36 explosive agent is not a destructive device as that term is
37 used in Section 12301.

38 (b) Subdivision (a) does not apply to any of the
39 following:



1 (1) The sale to, purchase by, or possession of
2 short-barreled shotguns or short-barreled rifles by police
3 departments, sheriffs' offices, marshals' offices, the
4 California Highway Patrol, the Department of Justice, or
5 the military or naval forces of this state or of the United
6 States for use in the discharge of their official duties or the
7 possession of short-barreled shotguns and short-barreled
8 rifles by regular, salaried, full-time members of a police
9 department, sheriff's office, marshal's office, the
10 California Highway Patrol, or the Department of Justice
11 when on duty and the use is authorized by the agency and
12 is within the course and scope of their duties.

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

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

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

24 (5) Any antique firearm. For purposes of this section,
25 "antique firearm" means any firearm not designed or
26 redesigned for using rimfire or conventional center fire
27 ignition with fixed ammunition and manufactured in or
28 before 1898 (including any matchlock, flintlock,
29 percussion cap, or similar type of ignition system or
30 replica thereof, whether actually manufactured before or
31 after the year 1898) and also any firearm using fixed
32 ammunition manufactured in or before 1898, for which
33 ammunition is no longer manufactured in the United
34 States and is not readily available in the ordinary channels
35 of commercial trade.

36 (6) Tracer ammunition manufactured for use in
37 shotguns.

38 (7) Any firearm or ammunition which is a curio or relic
39 as defined in Section 178.11 of Title 27 of the Code of
40 Federal Regulations and which is in the possession of a



1 person permitted to possess the items pursuant to
2 Chapter 44 (commencing with Section 921) of Title 18 of
3 the United States Code and the regulations issued
4 pursuant thereto. Any person prohibited by Section
5 12021, 12021.1, or 12101 of this code or Section 8100 or 8103
6 of the Welfare and Institutions Code from possessing
7 firearms or ammunition who obtains title to these items
8 by bequest or intestate succession may retain title for not
9 more than one year, but actual possession of these items
10 at any time is punishable pursuant to Section 12021,
11 12021.1, or 12101 of this code or Section 8100 or 8103 of the
12 Welfare and Institutions Code. Within the year, the
13 person shall transfer title to the firearms or ammunition
14 by sale, gift, or other disposition. Any person who violates
15 this paragraph is in violation of subdivision (a).

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

35 (9) Instruments or devices that are possessed by
36 federal, state, and local historical societies, museums, and
37 institutional collections which are open to the public,
38 provided that these instruments or devices are properly
39 housed, secured from unauthorized handling, and, if the
40 instrument or device is a firearm, unloaded.



1 (10) Instruments or devices, other than short-barreled
2 shotguns or short-barreled rifles, that are possessed or
3 utilized during the course of a motion picture, television,
4 or video production or entertainment event by an
5 authorized participant therein in the course of making
6 that production or event or by an authorized employee
7 or agent of the entity producing that production or event.

8 (11) Instruments or devices, other than short-barreled
9 shotguns or short-barreled rifles, that are sold by,
10 manufactured by, exposed or kept for sale by, possessed
11 by, imported by, or lent by persons who are in the
12 business of selling instruments or devices listed in
13 subdivision (a) solely to the entities referred to in
14 paragraphs (9) and (10) when engaging in transactions
15 with those entities.

16 (12) The sale to, possession of, or purchase of any
17 weapon, device, or ammunition, other than a
18 short-barreled rifle or short-barreled shotgun, by any
19 federal, state, county, city and county, or city agency that
20 is charged with the enforcement of any law for use in the
21 discharge of their official duties, or the possession of any
22 weapon, device, or ammunition, other than a
23 short-barreled rifle or short-barreled shotgun, by peace
24 officers thereof when on duty and the use is authorized
25 by the agency and is within the course and scope of their
26 duties.

27 (13) Weapons, devices, and ammunition, other than a
28 short-barreled rifle or short-barreled shotgun, that are
29 sold by, manufactured by, exposed, or kept for sale by,
30 possessed by, imported by, or lent by, persons who are in
31 the business of selling weapons, devices, and ammunition
32 listed in subdivision (a) solely to the entities referred to
33 in paragraph (12) when engaging in transactions with
34 those entities.

35 (14) The manufacture for, sale to, exposing or keeping
36 for sale to, importation of, or lending of wooden clubs or
37 batons to special police officers or uniformed security
38 guards authorized to carry any wooden club or baton
39 pursuant to Section 12002 by entities that are in the
40 business of selling wooden batons or clubs to special police



1 officers and uniformed security guards when engaging in
2 transactions with those persons.

3 (15) Any plastic toy handgrenade, or any metal
4 military practice handgrenade or metal replica
5 handgrenade that is a relic, curio, memorabilia, or display
6 item, that is filled with a permanent inert substance or
7 that is otherwise permanently altered in a manner that
8 prevents ready modification for use as a grenade.

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

12 (A) The person is not prohibited from possessing
13 firearms or ammunition pursuant to Section 12021 or
14 12021.1 or paragraph (1) of subdivision (b) of Section
15 12316 of this code or Section 8100 or 8103 of the Welfare
16 and Institutions Code.

17 (B) The person possessed the instrument,
18 ammunition, weapon, or device no longer than was
19 necessary to deliver or transport the same to a law
20 enforcement agency for that agency's disposition
21 according to law.

22 (C) If the person is transporting the listed item, he or
23 she is transporting the listed item to a law enforcement
24 agency for disposition according to law.

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

28 (A) The person is not prohibited from possessing
29 firearms or ammunition pursuant to Section 12021 or
30 12021.1 or paragraph (1) of subdivision (b) of Section
31 12316 of this code or Section 8100 or 8103 of the Welfare
32 and Institutions Code.

33 (B) The person possessed the firearm no longer than
34 was necessary to deliver or transport the same to a law
35 enforcement agency for that agency's disposition
36 according to law.

37 (C) If the person is transporting the firearm, he or she
38 is transporting the firearm to a law enforcement agency
39 for disposition according to law.



1 (D) Prior to transporting the firearm to a law
2 enforcement agency, he or she has given prior notice to
3 that law enforcement agency that he or she is
4 transporting the firearm to that law enforcement agency
5 for disposition according to law.

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

8 (18) The possession of any weapon, device, or
9 ammunition, by a forensic laboratory or any authorized
10 agent or employee thereof in the course and scope of his
11 or her authorized activities.

12 (19) The sale of, giving of, lending of, importation into
13 this state of, or purchase of, any large-capacity magazine
14 to or by any federal, state, county, city and county, or city
15 agency that is charged with the enforcement of any law,
16 for use by agency employees in the discharge of their
17 official duties whether on or off duty, and where the use
18 is authorized by the agency and is within the course and
19 scope of their duties.

20 (20) The sale to, lending to, transfer to, purchase by,
21 receipt of, or; importation into this state of, a large
22 capacity magazine by a sworn peace officer as defined in
23 Chapter 4.5 (commencing with Section 830) of Title 3 of
24 Part 2 who is authorized to carry a firearm in the course
25 and scope of his or her duties.

26 (21) The sale or purchase of any large-capacity
27 magazine to or by a person licensed pursuant to Section
28 12071.

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

32 (A) The person being loaned the large-capacity
33 magazine is not prohibited by Section 12021, 12021.1, or
34 12101 of this code or Section 8100 or 8103 of the Welfare
35 and Institutions Code from possessing firearms or
36 ammunition.

37 (B) The loan of the large-capacity magazine occurs at
38 a place or location where the possession of the
39 large-capacity magazine is not otherwise prohibited and
40 the person who lends the large-capacity magazine



1 remains in the accessible vicinity of the person to whom
2 the large-capacity magazine is loaned.

3 (23) The importation of a large-capacity magazine by
4 a person who lawfully possessed the large-capacity
5 magazine in the state prior to January 1, 2000, lawfully
6 took it out of the state, and is returning to the state with
7 the large-capacity magazine previously lawfully
8 possessed in the state.

9 (24) The lending or giving of any large capacity
10 magazine to a person licensed pursuant to Section 12071,
11 or to a gunsmith, for the purposes of maintenance, repair,
12 or modification of that large capacity magazine.

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

15 (26) The importation into this state of, or sale of, any
16 large capacity magazine by a person who has been issued
17 a permit to engage in those activities pursuant to Section
18 12079, when those activities are in accordance with the
19 terms and conditions of that permit.

20 (27) The sale of, giving of, lending of, importation into
21 this state of, or purchase of, any large capacity magazine,
22 to or by entities that operate armored vehicle businesses
23 pursuant to the laws of this state.

24 (28) The lending of large capacity magazines by the
25 entities specified in paragraph—~~(28)~~ (27) to their
26 authorized employees, while in the course and scope of
27 their employment for purposes that pertain to the entity's
28 armored vehicle business.

29 (29) The return of those large capacity magazines to
30 those entities specified in paragraph (27) by those
31 employees specified in paragraph (28).

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 ammunition feeding device with the capacity
5 to accept more than 10 rounds, but shall not be construed
6 to include a feeding device that has been permanently
7 altered so that it cannot accommodate more than 10
8 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. 3.5. Section 12020 of the Penal Code is amended*
14 *to read:*

15 12020. (a) Any person in this state who ~~manufactures~~
16 *does any of the following is punishable by imprisonment*
17 *in a county jail not exceeding one year or in the state*
18 *prison:*

19 (1) *Manufactures* or causes to be manufactured,
20 imports into the state, keeps for sale, or offers or exposes
21 for sale, or who gives, lends, or possesses any cane gun or
22 wallet gun, any undetectable firearm, any firearm which
23 is not immediately recognizable as a firearm, any
24 camouflaging firearm container, any ammunition which
25 contains or consists of any fléchette dart, any bullet
26 containing or carrying an explosive agent, any ballistic
27 knife, any multiburst trigger activator, any nunchaku,
28 any short-barreled shotgun, any short-barreled rifle, any
29 metal knuckles, any belt buckle knife, any leaded cane,
30 any zip gun, any shuriken, any unconventional pistol, any
31 lipstick case knife, any cane sword, any shobi-zue, any air
32 gauge knife, any writing pen knife, any metal military
33 practice handgrenade or metal replica handgrenade, or
34 any instrument or weapon of the kind commonly known
35 as a blackjack, slungshot, billy, sandclub, sap, or sandbag;
36 ~~or who carries.~~

37 (2) *Commencing January 1, 2000, manufactures or*
38 *causes to be manufactured, imports into the state, keeps*
39 *for sale, or offers or exposes for sale, or who gives, or lends,*
40 *any large-capacity magazine.*



1 (3) *Carries* concealed upon his or her person any
2 explosive substance, other than fixed ammunition, ~~or who~~
3 ~~carries.~~

4 (4) *Carries* concealed upon his or her person any dirk
5 or dagger ~~is punishable by imprisonment in a county jail~~
6 ~~not exceeding one year or in the state prison. However.~~

7 *However*, a first offense involving any metal military
8 practice handgrenade or metal replica handgrenade shall
9 be punishable only as an infraction unless the offender is
10 an active participant in a criminal street gang as defined
11 in the Street Terrorism and Enforcement and Prevention
12 Act (Chapter 11 (commencing with Section ~~186.20~~)
13 ~~186.29~~) of Title 7 of Part 1). A bullet containing or
14 carrying an explosive agent is not a destructive device as
15 that term is used in Section 12301.

16 (b) Subdivision (a) does not apply to any of the
17 following:

18 (1) The sale to, purchase by, or possession of
19 short-barreled shotguns or short-barreled rifles by police
20 departments, sheriffs' offices, marshals' offices, the
21 California Highway Patrol, the Department of Justice, or
22 the military or naval forces of this state or of the United
23 States for use in the discharge of their official duties or the
24 possession of short-barreled shotguns and short-barreled
25 rifles by ~~regular, salaried, full-time~~ *peace officer*
26 members of a police department, sheriff's office,
27 marshal's office, the California Highway Patrol, or the
28 Department of Justice when on duty and the use is
29 authorized by the agency and is within the course and
30 scope of their duties *and the peace officer has completed*
31 *a training course in the use of these weapons certified by*
32 *the Commission on Peace Officer Standards and*
33 *Training.*

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



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

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

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

19 (6) Tracer ammunition manufactured for use in
20 shotguns.

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

39 (8) Any other weapon as defined in subsection (e) of
40 Section 5845 of Title 26 of the United States Code and



1 which is in the possession of a person permitted to possess
2 the weapons pursuant to the federal Gun Control Act of
3 1968 (Public Law 90-618), as amended, and the
4 regulations issued pursuant thereto. Any person
5 prohibited by Section 12021, 12021.1, or 12101 of this code
6 or Section 8100 or 8103 of the Welfare and Institutions
7 Code from possessing these weapons who obtains title to
8 these weapons by bequest or intestate succession may
9 retain title for not more than one year, but actual
10 possession of these weapons at any time is punishable
11 pursuant to Section 12021, 12021.1, or 12101 of this code or
12 Section 8100 or 8103 of the Welfare and Institutions Code.
13 Within the year, the person shall transfer title to the
14 weapons by sale, gift, or other disposition. Any person
15 who violates this paragraph is in violation of subdivision
16 (a). The exemption provided in this subdivision does not
17 apply to pen guns.

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

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

31 (11) Instruments or devices, other than short-barreled
32 shotguns or short-barreled rifles, that are sold by,
33 manufactured by, exposed or kept for sale by, possessed
34 by, imported by, or lent by persons who are in the
35 business of selling instruments or devices listed in
36 subdivision (a) solely to the entities referred to in
37 paragraphs (9) and (10) when engaging in transactions
38 with those entities.

39 (12) The sale to, possession of, or purchase of any
40 weapon, device, or ammunition, other than a



1 short-barreled rifle or short-barreled shotgun, by any
2 federal, state, county, city and county, or city agency that
3 is charged with the enforcement of any law for use in the
4 discharge of their official duties, or the possession of any
5 weapon, device, or ammunition, other than a
6 short-barreled rifle or short-barreled shotgun, by peace
7 officers thereof when on duty and the use is authorized
8 by the agency and is within the course and scope of their
9 duties.

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

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

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

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

35 (A) The person is not prohibited from possessing
36 firearms or ammunition pursuant to Section 12021 or
37 12021.1 or paragraph (1) of subdivision (b) of Section
38 12316 of this code or Section 8100 or 8103 of the Welfare
39 and Institutions Code.



1 (B) The person possessed the instrument,
2 ammunition, weapon, or device no longer than was
3 necessary to deliver or transport the same to a law
4 enforcement agency for that agency's disposition
5 according to law.

6 (C) If the person is transporting the listed item, he or
7 she is transporting the listed item to a law enforcement
8 agency for disposition according to law.

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

12 (A) The person is not prohibited from possessing
13 firearms or ammunition pursuant to Section 12021 or
14 12021.1 or paragraph (1) of subdivision (b) of Section
15 12316 of this code or Section 8100 or 8103 of the Welfare
16 and Institutions Code.

17 (B) The person possessed the firearm no longer than
18 was necessary to deliver or transport the same to a law
19 enforcement agency for that agency's disposition
20 according to law.

21 (C) If the person is transporting the firearm, he or she
22 is transporting the firearm to a law enforcement agency
23 for disposition according to law.

24 (D) Prior to transporting the firearm to a law
25 enforcement agency, he or she has given prior notice to
26 that law enforcement agency that he or she is
27 transporting the firearm to that law enforcement agency
28 for disposition according to law.

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

31 (18) The possession of any weapon, device, or
32 ammunition, by a forensic laboratory or any authorized
33 agent or employee thereof in the course and scope of his
34 or her authorized activities.

35 *(19) The sale of, giving of, lending of, importation into*
36 *this state of, or purchase of, any large-capacity magazine*
37 *to or by any federal, state, county, city and county, or city*
38 *agency that is charged with the enforcement of any law,*
39 *for use by agency employees in the discharge of their*
40 *official duties whether on or off duty, and where the use*



1 is authorized by the agency and is within the course and
2 scope of their duties.

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

9 (21) The sale or purchase of any large-capacity
10 magazine to or by a person licensed pursuant to Section
11 12071.

12 (22) 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 (23) 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 (24) The lending or giving of any large capacity
33 magazine to a person licensed pursuant to Section 12071,
34 or to a gunsmith, for the purposes of maintenance, repair,
35 or modification of that large capacity magazine.

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

38 (26) The importation into this state of, or sale of, any
39 large capacity magazine by a person who has been issued
40 a permit to engage in those activities pursuant to Section



1 12079, when those activities are in accordance with the
2 terms and conditions of that permit.

3 (27) The sale of, giving of, lending of, importation into
4 this state of, or purchase of, any large capacity magazine,
5 to or by entities that operate armored vehicle businesses
6 pursuant to the laws of this state.

7 (28) The lending of large capacity magazines by the
8 entities specified in paragraph (27) to their authorized
9 employees, while in the course and scope of their
10 employment for purposes that pertain to the entity's
11 armored vehicle business.

12 (29) The return of those large capacity magazines to
13 those entities specified in paragraph (27) by those
14 employees specified in paragraph (28).

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

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

20 (B) A firearm which has an overall length of less than
21 26 inches and which is designed or redesigned to fire a
22 fixed shotgun shell.

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

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

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

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

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



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

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

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

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

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

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

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

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

36 (7) As used in this section, “metal knuckles” means
37 any device or instrument made wholly or partially of
38 metal which is worn for purposes of offense or defense in
39 or on the hand and which either protects the wearer’s
40 hand while striking a blow or increases the force of impact



1 from the blow or injury to the individual receiving the
2 blow. The metal contained in the device may help
3 support the hand or fist, provide a shield to protect it, or
4 consist of projections or studs which would contact the
5 individual receiving a blow.

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

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

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

16 (B) It is designed and intended to allow the firing of
17 the enclosed firearm by external controls while the
18 firearm is in the container.

19 (C) It is not readily recognizable as containing a
20 firearm.

21 “Camouflaging firearm container” does not include
22 any camouflaging covering used while engaged in lawful
23 hunting or while going to or returning from a lawful
24 hunting expedition.

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

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

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

36 (C) No tax was paid on the weapon or device nor was
37 an exemption from paying tax on that weapon or device
38 granted under Section 4181 and subchapters F
39 (commencing with Section 4216) and G (commencing
40 with Section 4221) of Chapter 32 of Title 26 of the United



1 States Code, as amended, and the regulations issued
2 pursuant thereto.

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

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

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

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

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

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

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

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

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

37 (19) As used in this section, a “writing pen knife”
38 means a device that appears to be a writing pen but has
39 concealed within it a pointed, metallic shaft that is
40 designed to be a stabbing instrument which is exposed by



1 mechanical action or gravity which locks into place when
2 extended or the pointed, metallic shaft is exposed by the
3 removal of the cap or cover on the device.

4 (20) As used in this section, a “rifle” means a weapon
5 designed or redesigned, made or remade, and intended
6 to be fired from the shoulder and designed or redesigned
7 and made or remade to use the energy of the explosive in
8 a fixed cartridge to fire only a single projectile through a
9 rifled bore for each single pull of the trigger.

10 (21) As used in this section, a “shotgun” means a
11 weapon designed or redesigned, made or remade, and
12 intended to be fired from the shoulder and designed or
13 redesigned and made or remade to use the energy of the
14 explosive in a fixed shotgun shell to fire through a smooth
15 bore either a number of projectiles (ball shot) or a single
16 projectile for each pull of the trigger.

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

20 (A) When, after removal of grips, stocks, and
21 magazines, it is not as detectable as the Security
22 Exemplar, by walk-through metal detectors calibrated
23 and operated to detect the Security Exemplar.

24 (B) When any major component of which, when
25 subjected to inspection by the types of X-ray machines
26 commonly used at airports, does not generate an image
27 that accurately depicts the shape of the component.
28 Barium sulfate or other compounds may be used in the
29 fabrication of the component.

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

34 All firearm detection equipment newly installed in
35 nonfederal public buildings in this state shall be of a type
36 identified by either the United States Attorney General,
37 the Secretary of Transportation, or the Secretary of the
38 Treasury, as appropriate, as available state-of-the-art
39 equipment capable of detecting an undetectable firearm,
40 as defined, while distinguishing innocuous metal objects



1 likely to be carried on one's person sufficient for
2 reasonable passage of the public.

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

5 (A) A device designed or redesigned to be attached
6 to a semiautomatic firearm which allows the firearm to
7 discharge two or more shots in a burst by activating the
8 device.

9 (B) A manual or power-driven trigger activating
10 device constructed and designed so that when attached
11 to a semiautomatic firearm it increases the rate of fire of
12 that firearm.

13 (24) As used in this section, a "dirk" or "dagger" means
14 a knife or other instrument with or without a handguard
15 that is capable of ready use as a stabbing weapon that may
16 inflict great bodily injury or death. A nonlocking folding
17 knife, a folding knife that is not prohibited by Section
18 653k, or a pocketknife is capable of ready use as a stabbing
19 weapon that may inflict great bodily injury or death only
20 if the blade of the knife is exposed and locked into
21 position.

22 (25) *As used in this section, "large-capacity magazine"*
23 *means any ammunition feeding device with the capacity*
24 *to accept more than 10 rounds, but shall not be construed*
25 *to include a feeding device that has been permanently*
26 *altered so that it cannot accommodate more than 10*
27 *rounds nor shall it include any .22 caliber tube*
28 *ammunition feeding device.*

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

32 SEC. 4. Section 12022 of the Penal Code is amended
33 to read:

34 12022. (a) (1) Except as provided in subdivisions (c)
35 and (d), any person who is armed with a firearm in the
36 commission or attempted commission of a felony shall,
37 upon conviction of that felony or attempted felony, in
38 addition and consecutive to the punishment prescribed
39 for the felony or attempted felony of which he or she has
40 been convicted, be punished by an additional term of one



1 year, unless the arming is an element of the offense of which he or she was convicted. This additional term shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

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

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

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

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

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission or attempted commission of



1 a violation of Section 11351, 11351.5, 11352, 11366.5,
2 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the
3 Health and Safety Code, shall, upon conviction of that
4 offense and in addition and consecutive to the
5 punishment prescribed for that offense of which he or she
6 has been convicted, be punished by an additional term of
7 imprisonment in the state prison for three, four, or five
8 years in the court's discretion. The court shall order the
9 middle term unless there are circumstances in
10 aggravation or mitigation. The court shall state the
11 reasons for its enhancement choice on the record at the
12 time of the sentence.

13 (d) Notwithstanding the enhancement set forth in
14 subdivision (a), any person who is not personally armed
15 with a firearm who, knowing that another principal is
16 personally armed with a firearm, is a principal in the
17 commission or attempted commission of an offense
18 specified in subdivision (c), shall, upon conviction of that
19 offense, be punished by an additional term of one, two, or
20 three years in the court's discretion. The court shall order
21 the middle term unless there are circumstances in
22 aggravation or mitigation. The court shall state the
23 reasons for its enhancement choice on the record at the
24 time of the sentence.

25 (e) For purposes of imposing an enhancement under
26 Section 1170.1, the enhancements under this section shall
27 count as one, single enhancement.

28 (f) Notwithstanding any other provision of law, the
29 court may strike the additional punishment for the
30 enhancements provided in subdivision (c) or (d) in an
31 unusual case where the interests of justice would best be
32 served, if the court specifies on the record and enters into
33 the minutes the circumstances indicating that the
34 interests of justice would best be served by that
35 disposition.

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

38 12022.5. (a) (1) Except as provided in subdivisions
39 (b) and (c), any person who personally uses a firearm in
40 the commission or attempted commission of a felony



1 shall, upon conviction of that felony or attempted felony,
2 in addition and consecutive to the punishment
3 prescribed for the felony or attempted felony of which he
4 or she has been convicted, be punished by an additional
5 term of imprisonment in the state prison for 3, 4, or 10
6 years, unless use of a firearm is an element of the offense
7 of which he or she was convicted.

8 (2) If the person described in paragraph (1) has been
9 convicted of carjacking or attempted carjacking, the
10 additional term shall be 4, 5, or 10 years. The court shall
11 order imposition of the middle term unless there are
12 circumstances in aggravation or mitigation. The court
13 shall state its reasons for its enhancement choice on the
14 record at the time of sentencing.

15 (b) (1) Notwithstanding subdivision (a), any person
16 who is convicted of a felony or an attempt to commit a
17 felony, including murder or attempted murder, in which
18 that person discharged a firearm at an occupied motor
19 vehicle which caused great bodily injury or death to the
20 person of another, shall, upon conviction of that felony or
21 attempted felony, in addition and consecutive to the
22 sentence prescribed for the felony or attempted felony,
23 be punished by an additional term of imprisonment in the
24 state prison for 5, 6, or 10 years.

25 (2) Notwithstanding subdivision (a), any person who
26 personally uses an assault weapon, as specified in Section
27 12276 or Section 12276.1, or a machinegun, as defined in
28 Section 12200, in the commission or attempted
29 commission of a felony, shall, upon conviction of that
30 felony or attempted felony, in addition and consecutive
31 to the sentence prescribed for the felony or attempted
32 felony, be punished by an additional term of
33 imprisonment in the state prison for 5, 6, or 10 years.

34 (c) Notwithstanding the enhancement set forth in
35 subdivision (a), any person who personally uses a firearm
36 in the commission or attempted commission of a violation
37 of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378,
38 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety
39 Code, shall, upon conviction of that offense and in
40 addition and consecutive to the punishment prescribed



1 for the offense of which he or she has been convicted, be
2 punished by an additional term of imprisonment in the
3 state prison for 3, 4, or 10 years in the court's discretion.
4 The court shall order the imposition of the middle term
5 unless there are circumstances in aggravation or
6 mitigation. The court shall state the reasons for its
7 enhancement choice on the record.

8 (d) The additional term provided by this section may
9 be imposed in cases of assault with a firearm under
10 paragraph (2) of subdivision (a) of Section 245, or assault
11 with a deadly weapon which is a firearm under Section
12 245, or murder if the killing was perpetrated by means of
13 shooting a firearm from a motor vehicle, intentionally at
14 another person outside of the vehicle with the intent to
15 inflict great bodily injury or death.

16 (e) When a person is found to have personally used a
17 firearm, an assault weapon, or a machinegun in the
18 commission or attempted commission of a felony as
19 provided in this section and the firearm, assault weapon,
20 or machinegun is owned by that person, the court shall
21 order that the firearm be deemed a nuisance and
22 disposed of in the manner provided in Section 12028.

23 (f) For purposes of imposing an enhancement under
24 Section 1170.1, the enhancements under this section shall
25 count as one, single enhancement.

26 SEC. 6. Section 12079 is added to the Penal Code, to
27 read:

28 12079. (a) Upon a showing that good cause exists, the
29 Department of Justice may issue permits for the
30 possession, transportation, or sale between a person
31 licensed pursuant to Section 12071 and an out-of-state
32 client, of large capacity magazines.

33 (b) For purposes of this section, "large capacity
34 magazine" shall have the same meaning as that set forth
35 in paragraph (25) of subdivision (c) of Section 12020.

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

38 12276.1. (a) Notwithstanding Section 12276, "assault
39 weapon" shall also mean any of the following:



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

4 (A) A pistol grip that protrudes conspicuously beneath
5 the action of the weapon.

6 (B) A thumbhole stock.

7 ~~(C) A vertical handgrip.~~

8 ~~(D)~~

9 (C) A folding or telescoping stock.

10 ~~(E)~~

11 (D) A grenade launcher or flare launcher.

12 ~~(F)~~

13 (E) A flash suppressor.

14 ~~(G) A forward handgrip.~~

15 (F) A *forward pistol grip*.

16 (2) A semiautomatic, centerfire rifle that has a fixed
17 magazine with the capacity to accept more than 10
18 rounds.

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

21 (4) A semiautomatic pistol that has the capacity to
22 accept a detachable magazine and any one of the
23 following:

24 (A) A threaded barrel, capable of accepting a flash
25 suppressor, forward handgrip, or silencer.

26 (B) A second handgrip.

27 (C) A shroud that is attached to, or partially or
28 completely encircles, the barrel that allows the bearer to
29 fire the weapon without burning his or her hand, except
30 a slide that encloses the barrel.

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

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

35 (6) A semiautomatic shotgun that has both of the
36 following:

37 (A) A folding or telescoping stock.

38 (B) A pistol grip that protrudes conspicuously beneath
39 the action of the weapon, thumbhole stock, or vertical
40 handgrip.



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

3 (8) Any shotgun with a revolving cylinder.

4 (b) “Assault weapon” does not include any antique
5 firearm.

6 (c) The following definitions shall apply under this
7 section:

8 (1) “Magazine” shall mean any ammunition feeding
9 device.

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

15 (3) “Antique firearm” means any firearm
16 manufactured prior to January 1, 1899.

17 (d) This section shall become operative January 1,
18 2000.

19 SEC. 8. Section 12280 of the Penal Code is amended
20 to read:

21 12280. (a) (1) Any person who, within this state,
22 manufactures or causes to be manufactured, distributes,
23 transports, or imports into the state, keeps for sale, or
24 offers or exposes for sale, or who gives or lends any assault
25 weapon, except as provided by this chapter, is guilty of a
26 felony, and upon conviction shall be punished by
27 imprisonment in the state prison for four, six, or eight
28 years.

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

34 (b) Except as provided in Section 12288, and in
35 subdivisions (c) and (d), any person who, within this
36 state, possesses any assault weapon, except as provided in
37 this chapter, is guilty of a public offense and upon
38 conviction shall be punished by imprisonment in the state
39 prison, or in a county jail, not exceeding one year.
40 However, if the person presents proof that he or she



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

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

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

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

28 (3) The person has not previously been convicted of
29 violating this section.

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

34 (5) The person has since registered the firearms and
35 any other lawfully obtained firearms defined by Section
36 12276.1, pursuant to Section 12285, except as provided for
37 by this section, or relinquished them pursuant to Section
38 12288.

39 (d) Firearms seized pursuant to subdivision (c) shall
40 be returned unless the court finds in the interest of public



1 safety, after notice and hearing, that the assault weapon
2 should be destroyed pursuant to Section 12028.

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

10 (f) Subdivisions (a) and (b) shall not apply to the sale
11 to, purchase by, or possession of assault weapons by the
12 Department of Justice, police departments, sheriffs'
13 offices, marshals' offices, the Youth and Adult Corrections
14 Agency, the Department of the California Highway
15 Patrol, district attorneys' offices, Department of Fish and
16 Game, Department of Parks and Recreation,
17 ~~Department of Alcoholic Beverage Control, Department~~
18 ~~of Consumer Affairs Division of Investigation,~~
19 ~~Department of Motor Vehicles, Department of Insurance~~
20 ~~Bureau of Fraudulent Claims,~~ or the military or naval
21 forces of this state or of the United States for use in the
22 discharge of their official duties.

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

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

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

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



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

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

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

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

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

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

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

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

25 (4) Federal military and law enforcement agencies.

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

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

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

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



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

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

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

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

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

15 (C) The 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 (o) 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 (n).

35 (p) 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 (q) 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 (r) 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 (s) 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 (t) Subdivision (a) shall not apply to the importation
37 into this state of an assault weapon by the registered
38 owner of that assault weapon, if it is in accordance with
39 the provisions of subdivision (c) of Section 12285.



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

3 (1) The effective date of an amendment to Section
4 12276 that adds the designation of the specified firearm.

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

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

10 SEC. 9. Section 12285 of the Penal Code is amended
11 to read:

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



1 (b) (1) Except as provided in paragraph (2), no
2 assault weapon possessed pursuant to this section may be
3 sold or transferred on or after January 1, 1990, to anyone
4 within this state other than to a licensed gun dealer, as
5 defined in subdivision (c) of Section 12290, or as provided
6 in Section 12288. Any person who (A) obtains title to an
7 assault weapon registered under this section or that was
8 possessed pursuant to subdivision (g) or (i) of Section
9 12280 by bequest or intestate succession, or (B) lawfully
10 possessed a firearm subsequently declared to be an assault
11 weapon pursuant to Section 12276.5, or subsequently
12 defined as an assault weapon pursuant to Section 12276.1,
13 shall, within 90 days, render the weapon permanently
14 inoperable, sell the weapon to a licensed gun dealer,
15 obtain a permit from the Department of Justice in the
16 same manner as specified in Article 3 (commencing with
17 Section 12230) of Chapter 2, or remove the weapon from
18 this state. A person who lawfully possessed a firearm that
19 was subsequently declared to be an assault weapon
20 pursuant to Section 12276.5 may alternatively register the
21 firearm within 90 days of the declaration issued pursuant
22 to subdivision (f) of Section 12276.5.

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

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

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



1 prohibited from delivering the assault weapon to a person
2 pursuant to this paragraph, the dealer shall possess or
3 dispose of the assault weapon as allowed by this chapter.

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

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

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

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

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

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

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

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

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



1 (e) The department's registration procedures shall
2 provide the option of joint registration for assault
3 weapons owned by family members residing in the same
4 household.

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

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

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

31 SEC. 10. Section 12287 of the Penal Code is amended
32 to read:

33 12287. (a) The Department of Justice may, upon a
34 finding of good cause, issue permits for the manufacture
35 of assault weapons to federally licensed manufacturers of
36 firearms for the sale to, purchase by, or possession of
37 assault weapons by, any of the following:

38 (1) The agencies listed in subdivision (f) of Section
39 12280.



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

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

7 (4) Federal law enforcement and military agencies.

8 (5) Law enforcement and military agencies of other
9 states.

10 (6) Foreign governments and agencies approved by
11 the United States State Department.

12 (b) Application for the permits, the keeping and
13 inspection thereof, and the revocation of permits shall be
14 undertaken in the same manner as specified in Article 3
15 (commencing with Section 12230) of Chapter 2.

16 SEC. 11. Section 12289 of the Penal Code is amended
17 to read:

18 12289. (a) The Department of Justice shall conduct a
19 public education and notification program regarding the
20 registration of assault weapons and the definition of the
21 weapons set forth in Section 12276.1. The public
22 education and notification program shall include
23 outreach to local law enforcement agencies and
24 utilization of public service announcements in a variety
25 of media approaches, to ensure maximum publicity of the
26 limited forgiveness period of the registration
27 requirement specified in subdivision (f) of Section 12285
28 and the consequences of nonregistration. The
29 department shall develop posters describing gunowners'
30 responsibilities under this chapter which shall be posted
31 in a conspicuous place in every licensed gun store in the
32 state during the forgiveness period.

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

38 SEC. 12. It was the original intent of the Legislature
39 in enacting Chapter 19 of the Statutes of 1989 to ban all
40 assault weapons, regardless of their name, model number,



1 or manufacture. It is the purpose of this act to effectively
2 achieve the Legislature's intent to prohibit all assault
3 weapons.

4 SEC. 13. If any phrase, clause, sentence, section, or
5 provision of this act or application thereof is held invalid
6 as to any person or circumstance, such invalidity shall not
7 affect any other phrase, clause, sentence, section,
8 provision, or application of this act, that can be given
9 effect without the invalid phrase, clause, sentence,
10 section, provision, or application and to this end the
11 provisions of the act are declared to be severable.

12 SEC. 14. *Section 3.5 of this bill incorporates*
13 *amendments to Section 12020 of the Penal Code proposed*
14 *by this bill and SB 359. It shall only become operative if*
15 *(1) both bills are enacted and become effective on or*
16 *before January 1, 2000, (2) each bill amends Section 12020*
17 *of the Penal Code, and (3) this bill is enacted after SB 359,*
18 *in which case Section 12020 of the Penal Code, as*
19 *amended by SB 359, shall remain operative only until the*
20 *operative date of this bill, at which time Section 3.5 of this*
21 *bill shall become operative, and Section 3 of this bill shall*
22 *not become operative.*

23 SEC. 15. 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.

