

AMENDED IN SENATE JUNE 30, 2010

AMENDED IN SENATE JUNE 10, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1934

**Introduced by Assembly Members ~~Saldana~~ *Saldana* and Ammiano
(Coauthor: Assembly Member Lieu)**

February 17, 2010

An act to amend Sections 7574.14 and 7582.2 of the Business and Professions Code, and to amend Sections 626.9, 12001, 12025, 12026, 12026.2, and 12590 of, and to add Section 12037 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1934, as amended, ~~Saldana~~ *Saldana*. Firearms.

Existing law, subject to exceptions, makes it an offense to carry a concealed handgun on the person or in a vehicle, as specified. Existing law provides that firearms carried openly in belt holsters are not concealed within the meaning of those provisions.

This bill would delete the exception pertaining to firearms carried openly in belt holsters. The bill would also establish an exemption to the offense for transportation of a firearm by members of specified organizations going directly to or from official parade duty or ceremonial occasions, as specified.

By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

Existing law, subject to exceptions, makes it an offense to carry a loaded firearm in specified public areas.

The bill would, subject to exceptions, make it a misdemeanor to openly carry an unloaded handgun on the person in specified public areas.

By creating a new offense, this bill would impose a state-mandated local program.

The bill would make conforming and nonsubstantive technical changes.

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 7574.14 of the Business and Professions
- 2 Code is amended to read:
- 3 7574.14. This chapter shall not apply to the following:
- 4 (a) An officer or employee of the United States of America, or
- 5 of this state or a political subdivision thereof, while the officer or
- 6 employee is engaged in the performance of his or her official
- 7 duties, including uniformed peace officers employed part time by
- 8 a public agency pursuant to a written agreement between a chief
- 9 of police or sheriff and the public agency, provided the part-time
- 10 employment does not exceed 50 hours in any calendar month.
- 11 (b) A person engaged exclusively in the business of obtaining
- 12 and furnishing information as to the financial rating of persons.
- 13 (c) A charitable philanthropic society or association incorporated
- 14 under the laws of this state that is organized and duly maintained
- 15 for the public good and not for private profit.
- 16 (d) Patrol special police officers appointed by the police
- 17 commission of any city, county, or city and county under the
- 18 express terms of its charter who also under the express terms of
- 19 the charter (1) are subject to suspension or dismissal after a hearing
- 20 on charges duly filed with the commission after a fair and impartial
- 21 trial, (2) must be not less than 18 years of age nor more than 40

1 years of age, (3) must possess physical qualifications prescribed
2 by the commission, and (4) are designated by the police
3 commission as the owners of a certain beat or territory as may be
4 fixed from time to time by the police commission.

5 (e) An attorney at law in performing his or her duties as an
6 attorney at law.

7 (f) A collection agency or an employee thereof while acting
8 within the scope of his or her employment, while making an
9 investigation incidental to the business of the agency, including
10 an investigation of the location of a debtor or his or her property
11 where the contract with an assignor creditor is for the collection
12 of claims owed or due or asserted to be owed or due or the
13 equivalent thereof.

14 (g) Admitted insurers and agents and insurance brokers licensed
15 by the state, performing duties in connection with insurance
16 transacted by them.

17 (h) Any bank subject to the jurisdiction of the Commissioner
18 of Financial Institutions of the State of California under Division
19 1 (commencing with Section 99) of the Financial Code or the
20 Comptroller of Currency of the United States.

21 (i) A person engaged solely in the business of securing
22 information about persons or property from public records.

23 (j) A peace officer of this state or a political subdivision thereof
24 while the peace officer is employed by a private employer to
25 engage in off-duty employment in accordance with Section 1126
26 of the Government Code. However, nothing herein shall exempt
27 such a peace officer who either contracts for his or her services or
28 the services of others as a private patrol operator or contracts for
29 his or her services as or is employed as an armed private security
30 officer. For purposes of this subdivision, "armed security officer"
31 means an individual who carries or uses a firearm in the course
32 and scope of that contract or employment.

33 (k) A retired peace officer of the state or political subdivision
34 thereof when the retired peace officer is employed by a private
35 employer in employment approved by the chief law enforcement
36 officer of the jurisdiction where the employment takes place,
37 provided that the retired officer is in a uniform of a public law
38 enforcement agency, has registered with the bureau on a form
39 approved by the director, and has met any training requirements
40 or their equivalent as established for security personnel under

1 Section 7583.5. This officer may not carry an unloaded and
2 exposed handgun unless exempted by Section 12037 of the Penal
3 Code, or a loaded or concealed firearm unless he or she is exempted
4 under the provisions of subdivision (a) of Section 12027 of the
5 Penal Code or paragraph (1) of subdivision (b) of Section 12031
6 of the Penal Code or has met the requirements set forth in Section
7 12033 of the Penal Code. However, nothing herein shall exempt
8 the retired peace officer who contracts for his or her services or
9 the services of others as a private patrol operator.

10 (l) A licensed insurance adjuster in performing his or her duties
11 within the scope of his or her license as an insurance adjuster.

12 (m) Any savings association subject to the jurisdiction of the
13 Commissioner of Financial Institutions or the Office of Thrift
14 Supervision.

15 (n) Any secured creditor engaged in the repossession of the
16 creditor's collateral and any lessor engaged in the repossession of
17 leased property in which it claims an interest.

18 (o) A peace officer in his or her official police uniform acting
19 in accordance with subdivisions (c) and (d) of Section 70 of the
20 Penal Code.

21 (p) An unarmed, uniformed security person employed
22 exclusively and regularly by a motion picture studio facility
23 employer who does not provide contract security services for other
24 entities or persons in connection with the affairs of that employer
25 only and where there exists an employer-employee relationship if
26 that person at no time carries or uses any deadly weapon, as defined
27 in subdivision (a), in the performance of his or her duties, which
28 may include, but are not limited to, the following business
29 purposes:

30 (1) The screening and monitoring access of employees of the
31 same employer.

32 (2) The screening and monitoring access of prearranged and
33 preauthorized invited guests.

34 (3) The screening and monitoring of vendors and suppliers.

35 (4) Patrolling the private property facilities for the safety and
36 welfare of all who have been legitimately authorized to have access
37 to the facility.

38 (q) An armored contract carrier operating armored vehicles
39 pursuant to the authority of the Department of the California

1 Highway Patrol or the Public Utilities Commission, or an armored
2 vehicle guard employed by an armored contract carrier.

3 SEC. 2. Section 7582.2 of the Business and Professions Code
4 is amended to read:

5 7582.2. This chapter does not apply to the following:

6 (a) A person who does not meet the requirements to be a
7 proprietary private security officer, as defined in Section 7574.1,
8 and is employed exclusively and regularly by any employer who
9 does not provide contract security services for other entities or
10 persons, in connection with the affairs of the employer only and
11 where there exists an employer-employee relationship if that person
12 at no time carries or uses any deadly weapon in the performance
13 of his or her duties. For purposes of this subdivision, “deadly
14 weapon” is defined to include any instrument or weapon of the
15 kind commonly known as a blackjack, slingshot, billy, sandclub,
16 sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any
17 other firearm, any knife having a blade longer than five inches,
18 any razor with an unguarded blade and any metal pipe or bar used
19 or intended to be used as a club.

20 (b) An officer or employee of the United States of America, or
21 of this state or a political subdivision thereof, while the officer or
22 employee is engaged in the performance of his or her official
23 duties, including uniformed peace officers employed part time by
24 a public agency pursuant to a written agreement between a chief
25 of police or sheriff and the public agency, provided the part-time
26 employment does not exceed 50 hours in any calendar month.

27 (c) A person engaged exclusively in the business of obtaining
28 and furnishing information as to the financial rating of persons.

29 (d) A charitable philanthropic society or association duly
30 incorporated under the laws of this state that is organized and
31 maintained for the public good and not for private profit.

32 (e) Patrol special police officers appointed by the police
33 commission of any city, county, or city and county under the
34 express terms of its charter who also under the express terms of
35 the charter (1) are subject to suspension or dismissal after a hearing
36 on charges duly filed with the commission after a fair and impartial
37 trial, (2) must be not less than 18 years of age nor more than 40
38 years of age, (3) must possess physical qualifications prescribed
39 by the commission, and (4) are designated by the police

1 commission as the owners of a certain beat or territory as may be
2 fixed from time to time by the police commission.

3 (f) An attorney at law in performing his or her duties as an
4 attorney at law.

5 (g) A collection agency or an employee thereof while acting
6 within the scope of his or her employment, while making an
7 investigation incidental to the business of the agency, including
8 an investigation of the location of a debtor or his or her property
9 where the contract with an assignor creditor is for the collection
10 of claims owed or due or asserted to be owed or due or the
11 equivalent thereof.

12 (h) Admitted insurers and agents and insurance brokers licensed
13 by the state, performing duties in connection with insurance
14 transacted by them.

15 (i) Any bank subject to the jurisdiction of the Commissioner of
16 Financial Institutions of the State of California under Division 1
17 (commencing with Section 99) of the Financial Code or the
18 Comptroller of Currency of the United States.

19 (j) A person engaged solely in the business of securing
20 information about persons or property from public records.

21 (k) A peace officer of this state or a political subdivision thereof
22 while the peace officer is employed by a private employer to
23 engage in off-duty employment in accordance with Section 1126
24 of the Government Code. However, nothing herein shall exempt
25 such peace officer who either contracts for his or her services or
26 the services of others as a private patrol operator or contracts for
27 his or her services as or is employed as an armed private security
28 officer. For purposes of this subdivision, "armed security officer"
29 means an individual who carries or uses a firearm in the course
30 and scope of that contract or employment.

31 (l) A retired peace officer of the state or political subdivision
32 thereof when the retired peace officer is employed by a private
33 employer in employment approved by the chief law enforcement
34 officer of the jurisdiction where the employment takes place,
35 provided that the retired officer is in a uniform of a public law
36 enforcement agency, has registered with the bureau on a form
37 approved by the director, and has met any training requirements
38 or their equivalent as established for security personnel under
39 Section 7583.5. This officer may not carry an unloaded and
40 exposed handgun unless exempted by Section 12037 of the Penal

1 Code, or a loaded or concealed firearm unless he or she is exempted
2 under the provisions of subdivision (a) of Section 12027 of the
3 Penal Code or paragraph (1) of subdivision (b) of Section 12031
4 of the Penal Code or has met the requirements set forth in Section
5 12033 of the Penal Code. However, nothing herein shall exempt
6 the retired peace officer who contracts for his or her services or
7 the services of others as a private patrol operator.

8 (m) A licensed insurance adjuster in performing his or her duties
9 within the scope of his or her license as an insurance adjuster.

10 (n) Any savings association subject to the jurisdiction of the
11 Commissioner of Financial Institutions or the Office of Thrift
12 Supervision.

13 (o) Any secured creditor engaged in the repossession of the
14 creditor's collateral and any lessor engaged in the repossession of
15 leased property in which it claims an interest.

16 (p) A peace officer in his or her official police uniform acting
17 in accordance with subdivisions (c) and (d) of Section 70 of the
18 Penal Code.

19 (q) An unarmed, uniformed security person employed
20 exclusively and regularly by a motion picture studio facility
21 employer who does not provide contract security services for other
22 entities or persons in connection with the affairs of that employer
23 only and where there exists an employer-employee relationship if
24 that person at no time carries or uses any deadly weapon, as defined
25 in subdivision (a), in the performance of his or her duties, which
26 may include, but are not limited to, the following business
27 purposes:

28 (1) The screening and monitoring access of employees of the
29 same employer.

30 (2) The screening and monitoring access of prearranged and
31 preauthorized invited guests.

32 (3) The screening and monitoring of vendors and suppliers.

33 (4) Patrolling the private property facilities for the safety and
34 welfare of all who have been legitimately authorized to have access
35 to the facility.

36 (r) The changes made to this section by the act adding this
37 subdivision during the 2005–06 Regular Session of the Legislature
38 shall apply as follows:

39 (1) On and after July 1, 2006, to a person hired as a security
40 officer on and after January 1, 2006.

1 (2) On and after January 1, 2007, to a person hired as a security
2 officer before January 1, 2006.

3 SEC. 3. Section 626.9 of the Penal Code is amended to read:

4 626.9. (a) This section shall be known, and may be cited, as
5 the Gun-Free School Zone Act of 1995.

6 (b) Any person who possesses a firearm in a place that the
7 person knows, or reasonably should know, is a school zone, as
8 defined in paragraph (1) of subdivision (e), unless it is with the
9 written permission of the school district superintendent, his or her
10 designee, or equivalent school authority, shall be punished as
11 specified in subdivision (f).

12 (c) Subdivision (b) does not apply to the possession of a firearm
13 under any of the following circumstances:

14 (1) Within a place of residence or place of business or on private
15 property, if the place of residence, place of business, or private
16 property is not part of the school grounds and the possession of
17 the firearm is otherwise lawful.

18 (2) When the firearm is an unloaded handgun and is in a locked
19 container or within the locked trunk of a motor vehicle.

20 This section does not prohibit or limit the otherwise lawful
21 transportation of any other firearm, other than a handgun, in
22 accordance with state law.

23 (3) When the person possessing the firearm reasonably believes
24 that he or she is in grave danger because of circumstances forming
25 the basis of a current restraining order issued by a court against
26 another person or persons who has or have been found to pose a
27 threat to his or her life or safety. This subdivision may not apply
28 when the circumstances involve a mutual restraining order issued
29 pursuant to Division 10 (commencing with Section 6200) of the
30 Family Code absent a factual finding of a specific threat to the
31 person's life or safety. Upon a trial for violating subdivision (b),
32 the trier of a fact shall determine whether the defendant was acting
33 out of a reasonable belief that he or she was in grave danger.

34 (4) When the person is exempt from the prohibition against
35 carrying a concealed firearm pursuant to subdivision (b), (d), (e),
36 or (h) of Section 12027.

37 (d) Except as provided in subdivision (b), it shall be unlawful
38 for any person, with reckless disregard for the safety of another,
39 to discharge, or attempt to discharge, a firearm in a school zone,
40 as defined in paragraph (1) of subdivision (e).

1 The prohibition contained in this subdivision does not apply to
2 the discharge of a firearm to the extent that the conditions of
3 paragraph (1) of subdivision (c) are satisfied.

4 (e) As used in this section, the following definitions shall apply:

5 (1) "School zone" means an area in, or on the grounds of, a
6 public or private school providing instruction in kindergarten or
7 grades 1 to 12, inclusive, or within a distance of 1,000 feet from
8 the grounds of the public or private school.

9 (2) "Firearm" has the same meaning as that term is given in
10 Section 12001.

11 (3) "Locked container" has the same meaning as that term is
12 given in subdivision (c) of Section 12026.1.

13 (4) "Concealed firearm" has the same meaning as that term is
14 given in Sections 12025 and 12026.1.

15 (f) (1) Any person who violates subdivision (b) by possessing
16 a firearm in, or on the grounds of, a public or private school
17 providing instruction in kindergarten or grades 1 to 12, inclusive,
18 shall be punished by imprisonment in the state prison for two,
19 three, or five years.

20 (2) Any person who violates subdivision (b) by possessing a
21 firearm within a distance of 1,000 feet from the grounds of a public
22 or private school providing instruction in kindergarten or grades
23 1 to 12, inclusive, shall be punished as follows:

24 (A) By imprisonment in the state prison for two, three, or five
25 years, if any of the following circumstances apply:

26 (i) If the person previously has been convicted of any felony,
27 or of any crime made punishable by Chapter 1 (commencing with
28 Section 12000) of Title 2 of Part 4.

29 (ii) If the person is within a class of persons prohibited from
30 possessing or acquiring a firearm pursuant to Section 12021 or
31 12021.1 of this code or Section 8100 or 8103 of the Welfare and
32 Institutions Code.

33 (iii) If the firearm is any handgun and the offense is punished
34 as a felony pursuant to Section 12025.

35 (B) By imprisonment in a county jail for not more than one year
36 or by imprisonment in the state prison for two, three, or five years,
37 in all cases other than those specified in subparagraph (A).

38 (3) Any person who violates subdivision (d) shall be punished
39 by imprisonment in the state prison for three, five, or seven years.

(g) (1) Every person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 12001.6, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) Every person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by Chapter 1 (commencing with Section 12000) of Title 2 of Part 4, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 12026, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment in the state prison for two, three, or four years. Notwithstanding subdivision

1 (k), a university or college shall post a prominent notice at primary
2 entrances on noncontiguous property stating that firearms are
3 prohibited on that property pursuant to this subdivision.

4 (i) Notwithstanding Section 12026, any person who brings or
5 possesses a firearm upon the grounds of a campus of, or buildings
6 owned or operated for student housing, teaching, research, or
7 administration by, a public or private university or college, that
8 are contiguous or are clearly marked university property, unless
9 it is with the written permission of the university or college
10 president, his or her designee, or equivalent university or college
11 authority, shall be punished by imprisonment in the state prison
12 for one, two, or three years. Notwithstanding subdivision (k), a
13 university or college shall post a prominent notice at primary
14 entrances on noncontiguous property stating that firearms are
15 prohibited on that property pursuant to this subdivision.

16 (j) For purposes of this section, a firearm shall be deemed to be
17 loaded when there is an unexpended cartridge or shell, consisting
18 of a case that holds a charge of powder and a bullet or shot, in, or
19 attached in any manner to, the firearm, including, but not limited
20 to, in the firing chamber, magazine, or clip thereof attached to the
21 firearm. A muzzle-loader firearm shall be deemed to be loaded
22 when it is capped or primed and has a powder charge and ball or
23 shot in the barrel or cylinder.

24 (k) This section does not require that notice be posted regarding
25 the proscribed conduct.

26 (l) This section does not apply to a duly appointed peace officer
27 as defined in Chapter 4.5 (commencing with Section 830) of Title
28 3 of Part 2, a full-time paid peace officer of another state or the
29 federal government who is carrying out official duties while in
30 California, any person summoned by any of these officers to assist
31 in making arrests or preserving the peace while he or she is actually
32 engaged in assisting the officer, a member of the military forces
33 of this state or of the United States who is engaged in the
34 performance of his or her duties, a person holding a valid license
35 to carry the firearm pursuant to Article 3 (commencing with Section
36 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle
37 guard, engaged in the performance of his or her duties, as defined
38 in subdivision (d) of Section 7582.1 of the Business and
39 Professions Code.

1 (m) This section does not apply to a security guard authorized
2 to carry a loaded firearm pursuant to Section 12031 or to openly
3 carry an unloaded handgun pursuant to Section 12037.

4 (n) This section does not apply to an existing shooting range at
5 a public or private school or university or college campus.

6 (o) This section does not apply to an honorably retired peace
7 officer authorized to carry a concealed or loaded firearm pursuant
8 to subdivision (a) or (i) of Section 12027 or paragraph (1) or (8)
9 of subdivision (b) of Section 12031 or to openly carry an unloaded
10 handgun pursuant to Section 12037.

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

12 12001. (a) (1) As used in this title, the terms “pistol,”
13 “revolver,” and “firearm capable of being concealed upon the
14 person” shall apply to and include any device designed to be used
15 as a weapon, from which is expelled a projectile by the force of
16 any explosion, or other form of combustion, and that has a barrel
17 less than 16 inches in length. These terms also include any device
18 that has a barrel 16 inches or more in length which is designed to
19 be interchanged with a barrel less than 16 inches in length.

20 (2) As used in this title, the term “handgun” means any “pistol,”
21 “revolver,” or “firearm capable of being concealed upon the
22 person.”

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

27 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
28 12073, 12078, 12101, and 12801 of this code, and Sections 8100,
29 8101, and 8103 of the Welfare and Institutions Code, the term
30 “firearm” includes the frame or receiver of the weapon.

31 (d) For the purposes of Sections 12025 and 12031, the term
32 “firearm” also shall include any rocket, rocket propelled projectile
33 launcher, or similar device containing any explosive or incendiary
34 material whether or not the device is designed for emergency or
35 distress signaling purposes.

36 (e) For purposes of Sections 12037, 12070, 12071, and
37 paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and
38 (f) of Section 12072, the term “firearm” does not include an
39 unloaded firearm that is defined as an “antique firearm” in Section
40 921(a)(16) of Title 18 of the United States Code.

1 (f) Nothing shall prevent a device defined as a “handgun,”
2 “pistol,” “revolver,” or “firearm capable of being concealed upon
3 the person” from also being found to be a short-barreled shotgun
4 or a short-barreled rifle, as defined in Section 12020.

5 (g) For purposes of Sections 12551 and 12552, the term “BB
6 device” means any instrument that expels a projectile, such as a
7 BB or a pellet, not exceeding 6mm caliber, through the force of
8 air pressure, gas pressure, or spring action, or any spot marker gun.

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

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

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

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

32 (2) The initial completion and transmission to the department
33 of the record of electronic or telephonic transfer by the dealer on
34 the purchaser, transferee, or person being loaned the firearm as
35 required by subdivision (c) of Section 12076.

36 (j) For purposes of Section 12023, a firearm shall be deemed
37 to be “loaded” whenever both the firearm and the unexpended
38 ammunition capable of being discharged from the firearm are in
39 the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

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

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

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

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

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

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

(4) He or she is the owner of a handgun.

(5) He or she acquired that handgun outside of California.

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

(7) He or she intends to possess that handgun within this state on or after January 1, 1998.

(8) The handgun was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that handgun following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that handgun to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The handgun is not a firearm that is prohibited by subdivision (a) of Section 12020.

1 (11) The handgun is not an assault weapon, as defined in Section
2 12276 or 12276.1.

3 (12) The handgun is not a machinegun, as defined in Section
4 12200.

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

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

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

10 (2) In the case of members of the Armed Forces of the United
11 States, residency shall be deemed to be established when he or she
12 was discharged from active service in this state.

13 (p) As used in this code, “basic firearms safety certificate”
14 means a certificate issued by the Department of Justice pursuant
15 to Article 8 (commencing with Section 12800) of Chapter 6 of
16 Title 2 of Part 4, prior to January 1, 2003.

17 (q) As used in this code, “handgun safety certificate” means a
18 certificate issued by the Department of Justice pursuant to Article
19 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
20 4, as that article is operative on or after January 1, 2003.

21 (r) As used in this title, “gunsmith” means any person who is
22 licensed as a dealer pursuant to Chapter 44 (commencing with
23 Section 921) of Title 18 of the United States Code and the
24 regulations issued pursuant thereto, who is engaged primarily in
25 the business of repairing firearms, or making or fitting special
26 barrels, stocks, or trigger mechanisms to firearms, or the agent or
27 employee of that person.

28 (s) As used in this title, “consultant-evaluator” means a
29 consultant or evaluator who, in the course of his or her profession
30 is loaned firearms from a person licensed pursuant to Chapter 44
31 (commencing with Section 921) of Title 18 of the United States
32 Code and the regulations issued pursuant thereto, for his or her
33 research or evaluation, and has a current certificate of eligibility
34 issued to him or her pursuant to Section 12071.

35 SEC. 5. Section 12025 of the Penal Code is amended to read:

36 12025. (a) A person is guilty of carrying a concealed firearm
37 when he or she does any of the following:

38 (1) Carries concealed within any vehicle which is under his or
39 her control or direction any handgun.

40 (2) Carries concealed upon his or her person any handgun.

1 (3) Causes to be carried concealed within any vehicle in which
2 he or she is an occupant any handgun.

3 (b) Carrying a concealed firearm in violation of this section is
4 punishable, as follows:

5 (1) Where the person previously has been convicted of any
6 felony, or of any crime made punishable by this chapter, as a
7 felony.

8 (2) Where the firearm is stolen and the person knew or had
9 reasonable cause to believe that it was stolen, as a felony.

10 (3) Where the person is an active participant in a criminal street
11 gang, as defined in subdivision (a) of Section 186.22, under the
12 Street Terrorism Enforcement and Prevention Act (Chapter 11
13 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

14 (4) Where the person is not in lawful possession of the firearm,
15 as defined in this section, or the person is within a class of persons
16 prohibited from possessing or acquiring a firearm pursuant to
17 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
18 the Welfare and Institutions Code, as a felony.

19 (5) Where the person has been convicted of a crime against a
20 person or property, or of a narcotics or dangerous drug violation,
21 by imprisonment in the state prison, or by imprisonment in a county
22 jail not to exceed one year, by a fine not to exceed one thousand
23 dollars (\$1,000), or by both that imprisonment and fine.

24 (6) By imprisonment in the state prison, or by imprisonment in
25 a county jail not to exceed one year, by a fine not to exceed one
26 thousand dollars (\$1,000), or by both that fine and imprisonment
27 if both of the following conditions are met:

28 (A) Both the handgun and the unexpended ammunition capable
29 of being discharged from that firearm are either in the immediate
30 possession of the person or readily accessible to that person, or
31 the handgun is loaded as defined in subdivision (g) of Section
32 12031.

33 (B) The person is not listed with the Department of Justice
34 pursuant to paragraph (1) of subdivision (c) of Section 11106, as
35 the registered owner of that handgun.

36 (7) In all cases other than those specified in paragraphs (1) to
37 (6), inclusive, by imprisonment in a county jail not to exceed one
38 year, by a fine not to exceed one thousand dollars (\$1,000), or by
39 both that imprisonment and fine.

1 (c) A peace officer may arrest a person for a violation of
2 paragraph (6) of subdivision (b) if the peace officer has probable
3 cause to believe that the person is not listed with the Department
4 of Justice pursuant to paragraph (1) of subdivision (c) of Section
5 11106 as the registered owner of the handgun, and one or more of
6 the conditions in subparagraph (A) of paragraph (6) of subdivision
7 (b) are met.

8 (d) (1) Every person convicted under this section who
9 previously has been convicted of a misdemeanor offense
10 enumerated in Section 12001.6 shall be punished by imprisonment
11 in a county jail for at least three months and not exceeding six
12 months, or, if granted probation, or if the execution or imposition
13 of sentence is suspended, it shall be a condition thereof that he or
14 she be imprisoned in a county jail for at least three months.

15 (2) Every person convicted under this section who has
16 previously been convicted of any felony, or of any crime made
17 punishable by this chapter, if probation is granted, or if the
18 execution or imposition of sentence is suspended, it shall be a
19 condition thereof that he or she be imprisoned in a county jail for
20 not less than three months.

21 (e) The court shall apply the three-month minimum sentence
22 as specified in subdivision (d), except in unusual cases where the
23 interests of justice would best be served by granting probation or
24 suspending the imposition or execution of sentence without the
25 minimum imprisonment required in subdivision (d) or by granting
26 probation or suspending the imposition or execution of sentence
27 with conditions other than those set forth in subdivision (d), in
28 which case, the court shall specify on the record and shall enter
29 on the minutes the circumstances indicating that the interests of
30 justice would best be served by that disposition.

31 (f) For purposes of this section, "lawful possession of the
32 firearm" means that the person who has possession or custody of
33 the firearm either lawfully owns the firearm or has the permission
34 of the lawful owner or a person who otherwise has apparent
35 authority to possess or have custody of the firearm. A person who
36 takes a firearm without the permission of the lawful owner or
37 without the permission of a person who has lawful custody of the
38 firearm does not have lawful possession of the firearm.

39 SEC. 6. Section 12026 of the Penal Code is amended to read:

1 12026. (a) Sections 12025 and 12037 shall not apply to or
2 affect any citizen of the United States or legal resident over the
3 age of 18 years who resides or is temporarily within this state, and
4 who is not within the excepted classes prescribed by Section 12021
5 or 12021.1 of this code or Section 8100 or 8103 of the Welfare
6 and Institutions Code, who carries, either openly or concealed,
7 anywhere within the citizen's or legal resident's place of residence,
8 place of business, or on private property owned or lawfully
9 possessed by the citizen or legal resident any handgun.

10 (b) No permit or license to purchase, own, possess, keep, or
11 carry, either openly or concealed, shall be required of any citizen
12 of the United States or legal resident over the age of 18 years who
13 resides or is temporarily within this state, and who is not within
14 the excepted classes prescribed by Section 12021 or 12021.1 of
15 this code or Section 8100 or 8103 of the Welfare and Institutions
16 Code, to purchase, own, possess, keep, or carry, either openly or
17 concealed, a handgun within the citizen's or legal resident's place
18 of residence, place of business, or on private property owned or
19 lawfully possessed by the citizen or legal resident.

20 (c) Nothing in this section shall be construed as affecting the
21 application of Section 12031.

22 SEC. 7. Section 12026.2 of the Penal Code is amended to read:

23 12026.2. (a) Section 12025 does not apply to, or affect, any
24 of the following:

25 (1) The possession of a firearm by an authorized participant in
26 a motion picture, television, or video production or entertainment
27 event when the participant lawfully uses the firearm as part of that
28 production or event or while going directly to, or coming directly
29 from, that production or event.

30 (2) The possession of a firearm in a locked container by a
31 member of any club or organization, organized for the purpose of
32 lawfully collecting and lawfully displaying pistols, revolvers, or
33 other firearms, while the member is at meetings of the clubs or
34 organizations or while going directly to, and coming directly from,
35 those meetings.

36 (3) The transportation of a firearm by a participant when going
37 directly to, or coming directly from, a recognized safety or hunter
38 safety class, or a recognized sporting event involving that firearm.

1 (4) The transportation of a firearm by a person listed in Section
2 12026 directly between any of the places mentioned in Section
3 12026.

4 (5) The transportation of a firearm by a person when going
5 directly to, or coming directly from, a fixed place of business or
6 private residential property for the purpose of the lawful repair or
7 the lawful transfer, sale, or loan of that firearm.

8 (6) The transportation of a firearm by a person listed in Section
9 12026 when going directly from the place where that person
10 lawfully received that firearm to that person's place of residence
11 or place of business or to private property owned or lawfully
12 possessed by that person.

13 (7) The transportation of a firearm by a person when going
14 directly to, or coming directly from, a gun show, swap meet, or
15 similar event to which the public is invited, for the purpose of
16 displaying that firearm in a lawful manner.

17 (8) The transportation of a firearm by an authorized employee
18 or agent of a supplier of firearms when going directly to, or coming
19 directly from, a motion picture, television, or video production or
20 entertainment event for the purpose of providing that firearm to
21 an authorized participant to lawfully use as a part of that production
22 or event.

23 (9) The transportation of a firearm by a person when going
24 directly to, or coming directly from, a target range, which holds a
25 regulatory or business license, for the purposes of practicing
26 shooting at targets with that firearm at that target range.

27 (10) The transportation of a firearm by a person when going
28 directly to, or coming directly from, a place designated by a person
29 authorized to issue licenses pursuant to Section 12050 when done
30 at the request of the issuing agency so that the issuing agency can
31 determine whether or not a license should be issued to that person
32 to carry that firearm.

33 (11) The transportation of a firearm by a person when going
34 directly to, or coming directly from, a lawful camping activity for
35 the purpose of having that firearm available for lawful personal
36 protection while at the lawful campsite. This paragraph shall not
37 be construed to override the statutory authority granted to the
38 Department of Parks and Recreation or any other state or local
39 governmental agencies to promulgate rules and regulations
40 governing the administration of parks and campgrounds.

1 (12) The transportation of a firearm by a person in order to
2 comply with subdivision (c) or (i) of Section 12078 as it pertains
3 to that firearm.

4 (13) The transportation of a firearm by a person in order to
5 utilize subdivision (l) of Section 12078 as it pertains to that firearm.

6 (14) The transportation of a firearm by a person when going
7 directly to, or coming directly from, a gun show or event, as
8 defined in Section 478.100 of Title 27 of the Code of Federal
9 Regulations, for the purpose of lawfully transferring, selling, or
10 loaning that firearm in accordance with subdivision (d) of Section
11 12072.

12 (15) The transportation of a firearm by a person in order to
13 utilize paragraph (6) of subdivision (a) of Section 12078 as it
14 pertains to that firearm.

15 (16) The transportation of a firearm by a person who finds the
16 firearm in order to comply with Article 1 (commencing with
17 Section 2080) of Chapter 4 of Division 3 of the Civil Code as it
18 pertains to that firearm and if that firearm is being transported to
19 a law enforcement agency, the person gives prior notice to the law
20 enforcement agency that he or she is transporting the firearm to
21 the law enforcement agency.

22 (17) The transportation of a firearm by a person in order to
23 comply with paragraph (2) or (3) of subdivision (f) of Section
24 12072 as it pertains to that firearm.

25 (18) The transportation of a firearm by a person who finds the
26 firearm and is transporting it to a law enforcement agency for
27 disposition according to law, if he or she gives prior notice to the
28 law enforcement agency that he or she is transporting the firearm
29 to the law enforcement agency for disposition according to law.

30 (19) The transportation of a firearm by a person for the purpose
31 of obtaining an identification number or mark assigned for that
32 firearm from the Department of Justice pursuant to Section 12092.

33 (20) The transportation by a member of an organization of a
34 firearm directly to, or directly from, official parade duty or
35 ceremonial occasions of that organization, or a place for the
36 purpose of rehearsing or practicing for official parade duty or
37 ceremonial occasions of that organization, if the organization is
38 chartered by the Congress of the United States, or is a nonprofit
39 mutual or public benefit corporation organized and recognized as

1 a nonprofit tax-exempt organization by the Internal Revenue
2 Service.

3 (b) In order for a firearm to be exempted under subdivision (a),
4 while being transported to or from a place, the firearm shall be
5 unloaded, kept in a locked container, as defined in subdivision (d),
6 and the course of travel shall include only those deviations between
7 authorized locations as are reasonably necessary under the
8 circumstances.

9 (c) This section does not prohibit or limit the otherwise lawful
10 carrying or transportation of any handgun in accordance with this
11 chapter.

12 (d) As used in this section, “locked container” means a secure
13 container which is fully enclosed and locked by a padlock, keylock,
14 combination lock, or similar locking device. The term “locked
15 container” does not include the utility or glove compartment of a
16 motor vehicle.

17 SEC. 8. Section 12037 is added to the Penal Code, to read:

18 12037. (a) A person is guilty of openly carrying an unloaded
19 handgun when that person carries an exposed and unloaded
20 handgun outside a vehicle on his or her person while in any public
21 place or on any public street in an incorporated city or in any public
22 place or on any public street in a prohibited area of an
23 unincorporated territory.

24 (b) A violation of this section is punishable by imprisonment
25 in a county jail not to exceed six months, by a fine not to exceed
26 one thousand dollars (\$1,000), or by both that fine and
27 imprisonment.

28 (c) (1) Nothing in this section shall preclude prosecution under
29 Sections 12021 and 12021.1 of this code, Section 8100 or 8103 of
30 the Welfare and Institutions Code, or any other law with a penalty
31 greater than is set forth in this section.

32 (2) The provisions of this section are cumulative, and shall not
33 be construed as restricting the application of any other law.
34 However, an act or omission punishable in different ways by
35 different provisions of law shall not be punished under more than
36 one provision.

37 (d) Subdivision (a) does not apply to, or affect, any of the
38 following:

39 (1) The open carrying of an unloaded handgun by any peace
40 officer or any honorably retired peace officer if he or she may

1 carry a concealed firearm pursuant to Section 12027 or a loaded
2 firearm pursuant to Section 12031.

3 (2) The open carrying of an unloaded handgun by any person
4 to the extent that person may carry a loaded firearm pursuant to
5 Section 12031.

6 (3) The open carrying of an unloaded handgun as merchandise
7 by a person who is engaged in the business of manufacturing,
8 importing, wholesaling, repairing, or dealing in firearms and who
9 is licensed to engage in that business or the authorized
10 representative or authorized agent of that person while engaged
11 in the lawful course of the business.

12 (4) The open carrying of an unloaded handgun by duly
13 authorized military or civil organizations while parading or while
14 rehearsing or practicing parading, or the members thereof when
15 at the meeting places of their respective organizations.

16 (5) The open carrying of an unloaded handgun by a member of
17 any club or organization organized for the purpose of practicing
18 shooting at targets upon established target ranges, whether public
19 or private, while the members are using handguns upon the target
20 ranges or incident to the use of a handgun at that target range.

21 (6) The open carrying of an unloaded handgun by a licensed
22 hunter while engaged in ~~lawful~~ hunting or while transporting that
23 handgun when going to or returning from ~~lawful hunting~~ *that*
24 *hunting expedition*.

25 (7) The open carrying of an unloaded handgun incident to
26 transportation of a handgun by a person operating a licensed
27 common carrier or an authorized agent or employee thereof when
28 transported in conformance with applicable federal law.

29 (8) The open carrying of an unloaded handgun by a member of
30 an organization chartered by the Congress of the United States or
31 a nonprofit mutual or public benefit corporation organized and
32 recognized as a nonprofit tax-exempt organization by the Internal
33 Revenue Service while on official parade duty or ceremonial
34 occasions of that organization or while rehearsing or practicing
35 for official parade duty or ceremonial occasions.

36 (9) The open carrying of an unloaded handgun within a gun
37 show conducted pursuant to Sections 12071.1 and 12071.4.

38 (10) The open carrying of an unloaded handgun within a school
39 zone, as defined in Section 626.9, with the written permission of

1 the school district superintendent, his or her designee, or equivalent
2 school authority.

3 (11) The open carrying of an unloaded handgun when in
4 accordance with the provisions of Section 171b.

5 (12) The open carrying of an unloaded handgun by any person
6 while engaged in the act of making or attempting to make a lawful
7 arrest.

8 (13) The open carrying of an unloaded handgun incident to
9 loaning, selling, or transferring the same in accordance with Section
10 12072 or any of the exemptions from subdivision (d) of Section
11 12072 so long as that handgun is possessed within private property
12 and the possession and carrying is with the permission of the owner
13 or lessee of that private property.

14 (14) The open carrying of an unloaded handgun by a person
15 engaged in firearms-related activities, while on the premises of a
16 fixed place of business which is licensed to conduct and conducts,
17 as a regular course of its business, activities related to the sale,
18 making, repair, transfer, pawn, or the use of firearms, or related
19 to firearms training.

20 (15) The open carrying of an unloaded handgun by an authorized
21 participant in, or an authorized employee or agent of a supplier of
22 firearms for, a motion picture, television or video production, or
23 entertainment event when the participant lawfully uses the handgun
24 as part of that production or event, as part of rehearsing or
25 practicing for participation in that production or event, or while
26 the participant or authorized employee or agent is at that production
27 or event, or rehearsal or practice for that production or event.

28 (16) The open carrying of an unloaded handgun incident to
29 obtaining an identification number or mark assigned for that
30 handgun from the Department of Justice pursuant to Section 12092.

31 (17) The open carrying of an unloaded handgun at established
32 target ranges, whether public or private, while the person is using
33 the handgun upon the target ranges.

34 (18) The open carrying of an unloaded handgun by a person
35 when that person is summoned by a peace officer to assist in
36 making arrests or preserving the peace while he or she is actually
37 engaged in assisting that officer.

38 (19) The open carrying of an unloaded handgun incident to:

39 (A) Complying with paragraph (2) or (3) of subdivision (f) of
40 Section 12072 as it pertains to that handgun.

1 (B) Subdivision (I) of Section 12078 as it pertains to that
2 handgun.

3 (C) Paragraph (6) of subdivision (a) of Section 12078 as it
4 pertains to that handgun.

5 (D) Complying with subdivision (c) or (i) of Section 12078 as
6 it pertains to that handgun.

7 (20) ~~The open and unloaded carrying of a~~ *carrying of an*
8 *unloaded* handgun incident to and in the course and scope of
9 training of or by an individual to become a sworn peace officer as
10 part of a course of study approved by the Commission on Peace
11 Officer Standards and Training.

12 (21) ~~The open and unloaded carrying of a~~ *carrying of an*
13 *unloaded* handgun incident to and in the course and scope of
14 training of or by an individual to become licensed pursuant to
15 Section 12050 as part of a course of study necessary or authorized
16 by the person authorized to issue the license pursuant to Section
17 12050.

18 (22) ~~The open and unloaded carrying of a~~ *carrying of an*
19 *unloaded* handgun incident to and at the request of a sheriff or
20 chief or other head of a municipal police department.

21 (23) ~~The open and unloaded carrying of a~~ *carrying of an*
22 *unloaded* handgun by a person when done within a place of
23 business, a place of residence, or on private property, if done with
24 the permission of a person who ~~is exempt from the prohibitions~~
25 ~~set forth in this section by virtue of the provisions of subdivision~~
26 ~~(a) of Section 12026.~~ *by virtue of subdivision (a) of Section 12026,*
27 *may carry openly an unloaded handgun within that place of*
28 *business, place of residence, or on that private property owned or*
29 *lawfully possessed by that person.*

30 (24) *The open carrying of an unloaded handgun at an auction*
31 *or similar event of a nonprofit public benefit or mutual benefit*
32 *corporation at which firearms are auctioned or otherwise sold to*
33 *fund the activities of that corporation or the local chapters of that*
34 *corporation if that handgun is a handgun that is to be auctioned*
35 *or otherwise sold for that nonprofit public benefit or mutual benefit*
36 *and it is to be delivered by a person licensed pursuant to, and*
37 *operating in accordance with, Section 12071.*

38 (e) Notwithstanding the fact that the term “an unloaded
39 handgun” is used in this section, each handgun shall constitute a
40 distinct and separate offense under this section.

1 (f) For purposes of this section, the following shall apply:

2 (1) A handgun shall be deemed unloaded if it is not “loaded”
3 within the meaning of subdivision (g) of Section 12031.

4 (2) The term “prohibited area” means any place where it is
5 unlawful to discharge a weapon.

6 (3) The term “public place” shall have the same meaning as in
7 Section 12031.

8 SEC. 9. Section 12590 of the Penal Code is amended to read:

9 12590. (a) Any person who does any of the following acts
10 while engaged in picketing, or other informational activities in a
11 public place relating to a concerted refusal to work, is guilty of a
12 misdemeanor:

13 (1) Carries concealed upon his or her person or within any
14 vehicle which is under his or her control or direction any handgun.

15 (2) Carries a loaded firearm upon his or her person or within
16 any vehicle which is under his or her control or direction.

17 (3) Carries a deadly weapon.

18 (4) Wears the uniform of a peace officer, whether or not the
19 person is a peace officer.

20 (5) Carries an unloaded handgun openly on his or her person
21 outside of a vehicle.

22 (b) This section shall not be construed to authorize or ratify any
23 picketing or other informational activities not otherwise authorized
24 by law.

25 (c) Section 12027 shall not be construed to authorize any
26 conduct described in paragraph (1) of subdivision (a), nor shall
27 subdivision (b) of Section 12031 be construed to authorize any
28 conduct described in paragraph (2) of subdivision (a), nor shall
29 subdivision (d) of Section 12037 be construed to authorize any
30 conduct described in paragraph (5) of subdivision (a).

31 SEC. 10. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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