

AMENDED IN SENATE AUGUST 19, 2010

AMENDED IN SENATE AUGUST 16, 2010

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 Saldaña 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, Saldaña. 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. The bill would provide other exemptions.

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 bill would incorporate amendments to Section 12001 of the Penal Code, proposed by AB 1810, contingent on the prior enactment of that bill.

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.

1 (c) A charitable philanthropic society or association incorporated
2 under the laws of this state that is organized and duly maintained
3 for the public good and not for private profit.

4 (d) Patrol special police officers appointed by the police
5 commission of any city, county, or city and county under the
6 express terms of its charter who also under the express terms of
7 the charter (1) are subject to suspension or dismissal after a hearing
8 on charges duly filed with the commission after a fair and impartial
9 trial, (2) must be not less than 18 years of age nor more than 40
10 years of age, (3) must possess physical qualifications prescribed
11 by the commission, and (4) are designated by the police
12 commission as the owners of a certain beat or territory as may be
13 fixed from time to time by the police commission.

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

16 (f) A collection agency or an employee thereof while acting
17 within the scope of his or her employment, while making an
18 investigation incidental to the business of the agency, including
19 an investigation of the location of a debtor or his or her property
20 where the contract with an assignor creditor is for the collection
21 of claims owed or due or asserted to be owed or due or the
22 equivalent thereof.

23 (g) Admitted insurers and agents and insurance brokers licensed
24 by the state, performing duties in connection with insurance
25 transacted by them.

26 (h) Any bank subject to the jurisdiction of the Commissioner
27 of Financial Institutions of the State of California under Division
28 1 (commencing with Section 99) of the Financial Code or the
29 Comptroller of Currency of the United States.

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

32 (j) A peace officer of this state or a political subdivision thereof
33 while the peace officer is employed by a private employer to
34 engage in off-duty employment in accordance with Section 1126
35 of the Government Code. However, nothing herein shall exempt
36 such a peace officer who either contracts for his or her services or
37 the services of others as a private patrol operator or contracts for
38 his or her services as or is employed as an armed private security
39 officer. For purposes of this subdivision, "armed security officer"

1 means an individual who carries or uses a firearm in the course
2 and scope of that contract or employment.

3 (k) A retired peace officer of the state or political subdivision
4 thereof when the retired peace officer is employed by a private
5 employer in employment approved by the chief law enforcement
6 officer of the jurisdiction where the employment takes place,
7 provided that the retired officer is in a uniform of a public law
8 enforcement agency, has registered with the bureau on a form
9 approved by the director, and has met any training requirements
10 or their equivalent as established for security personnel under
11 Section 7583.5. This officer may not carry an unloaded and
12 exposed handgun unless exempted by Section 12037 of the Penal
13 Code, or a loaded or concealed firearm unless he or she is exempted
14 under the provisions of subdivision (a) of Section 12027 of the
15 Penal Code or paragraph (1) of subdivision (b) of Section 12031
16 of the Penal Code or has met the requirements set forth in Section
17 12033 of the Penal Code. However, nothing herein shall exempt
18 the retired peace officer who contracts for his or her services or
19 the services of others as a private patrol operator.

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

22 (m) Any savings association subject to the jurisdiction of the
23 Commissioner of Financial Institutions or the Office of Thrift
24 Supervision.

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

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

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

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

3 (2) The screening and monitoring access of prearranged and
4 preauthorized invited guests.

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

6 (4) Patrolling the private property facilities for the safety and
7 welfare of all who have been legitimately authorized to have access
8 to the facility.

9 (q) An armored contract carrier operating armored vehicles
10 pursuant to the authority of the Department of the California
11 Highway Patrol or the Public Utilities Commission, or an armored
12 vehicle guard employed by an armored contract carrier.

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

15 7582.2. This chapter does not apply to the following:

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

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

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

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

4 (e) Patrol special police officers appointed by the police
5 commission of any city, county, or city and county under the
6 express terms of its charter who also under the express terms of
7 the charter (1) are subject to suspension or dismissal after a hearing
8 on charges duly filed with the commission after a fair and impartial
9 trial, (2) must be not less than 18 years of age nor more than 40
10 years of age, (3) must possess physical qualifications prescribed
11 by the commission, and (4) are designated by the police
12 commission as the owners of a certain beat or territory as may be
13 fixed from time to time by the police commission.

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

16 (g) A collection agency or an employee thereof while acting
17 within the scope of his or her employment, while making an
18 investigation incidental to the business of the agency, including
19 an investigation of the location of a debtor or his or her property
20 where the contract with an assignor creditor is for the collection
21 of claims owed or due or asserted to be owed or due or the
22 equivalent thereof.

23 (h) Admitted insurers and agents and insurance brokers licensed
24 by the state, performing duties in connection with insurance
25 transacted by them.

26 (i) Any bank subject to the jurisdiction of the Commissioner of
27 Financial Institutions of the State of California under Division 1
28 (commencing with Section 99) of the Financial Code or the
29 Comptroller of Currency of the United States.

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

32 (k) A peace officer of this state or a political subdivision thereof
33 while the peace officer is employed by a private employer to
34 engage in off-duty employment in accordance with Section 1126
35 of the Government Code. However, nothing herein shall exempt
36 such peace officer who either contracts for his or her services or
37 the services of others as a private patrol operator or contracts for
38 his or her services as or is employed as an armed private security
39 officer. For purposes of this subdivision, "armed security officer"

1 means an individual who carries or uses a firearm in the course
2 and scope of that contract or employment.

3 (l) A retired peace officer of the state or political subdivision
4 thereof when the retired peace officer is employed by a private
5 employer in employment approved by the chief law enforcement
6 officer of the jurisdiction where the employment takes place,
7 provided that the retired officer is in a uniform of a public law
8 enforcement agency, has registered with the bureau on a form
9 approved by the director, and has met any training requirements
10 or their equivalent as established for security personnel under
11 Section 7583.5. This officer may not carry an unloaded and
12 exposed handgun unless exempted by Section 12037 of the Penal
13 Code, or a loaded or concealed firearm unless he or she is exempted
14 under the provisions of subdivision (a) of Section 12027 of the
15 Penal Code or paragraph (1) of subdivision (b) of Section 12031
16 of the Penal Code or has met the requirements set forth in Section
17 12033 of the Penal Code. However, nothing herein shall exempt
18 the retired peace officer who contracts for his or her services or
19 the services of others as a private patrol operator.

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

22 (n) Any savings association subject to the jurisdiction of the
23 Commissioner of Financial Institutions or the Office of Thrift
24 Supervision.

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

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

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

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

3 (2) The screening and monitoring access of prearranged and
4 preauthorized invited guests.

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

6 (4) Patrolling the private property facilities for the safety and
7 welfare of all who have been legitimately authorized to have access
8 to the facility.

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

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

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

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

17 626.9. (a) This section shall be known, and may be cited, as
18 the Gun-Free School Zone Act of 1995.

19 (b) Any person who possesses a firearm in a place that the
20 person knows, or reasonably should know, is a school zone, as
21 defined in paragraph (1) of subdivision (e), unless it is with the
22 written permission of the school district superintendent, his or her
23 designee, or equivalent school authority, shall be punished as
24 specified in subdivision (f).

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

27 (1) Within a place of residence or place of business or on private
28 property, if the place of residence, place of business, or private
29 property is not part of the school grounds and the possession of
30 the firearm is otherwise lawful.

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

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

36 (3) When the person possessing the firearm reasonably believes
37 that he or she is in grave danger because of circumstances forming
38 the basis of a current restraining order issued by a court against
39 another person or persons who has or have been found to pose a
40 threat to his or her life or safety. This subdivision may not apply

1 when the circumstances involve a mutual restraining order issued
2 pursuant to Division 10 (commencing with Section 6200) of the
3 Family Code absent a factual finding of a specific threat to the
4 person's life or safety. Upon a trial for violating subdivision (b),
5 the trier of a fact shall determine whether the defendant was acting
6 out of a reasonable belief that he or she was in grave danger.

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

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

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

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

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

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

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

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

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

33 (2) Any person who violates subdivision (b) by possessing a
34 firearm within a distance of 1,000 feet from the grounds of a public
35 or private school providing instruction in kindergarten or grades
36 1 to 12, inclusive, shall be punished as follows:

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

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

4 (ii) If the person is within a class of persons prohibited from
5 possessing or acquiring a firearm pursuant to Section 12021 or
6 12021.1 of this code or Section 8100 or 8103 of the Welfare and
7 Institutions Code.

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

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

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

15 (g) (1) Every person convicted under this section for a
16 misdemeanor violation of subdivision (b) who has been convicted
17 previously of a misdemeanor offense enumerated in Section
18 12001.6 shall be punished by imprisonment in a county jail for
19 not less than three months, or if probation is granted or if the
20 execution or imposition of sentence is suspended, it shall be a
21 condition thereof that he or she be imprisoned in a county jail for
22 not less than three months.

23 (2) Every person convicted under this section of a felony
24 violation of subdivision (b) or (d) who has been convicted
25 previously of a misdemeanor offense enumerated in Section
26 12001.6, if probation is granted or if the execution of sentence is
27 suspended, it shall be a condition thereof that he or she be
28 imprisoned in a county jail for not less than three months.

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

36 (4) The court shall apply the three-month minimum sentence
37 specified in this subdivision, except in unusual cases where the
38 interests of justice would best be served by granting probation or
39 suspending the execution or imposition of sentence without the
40 minimum imprisonment required in this subdivision or by granting

1 probation or suspending the execution or imposition of sentence
2 with conditions other than those set forth in this subdivision, in
3 which case the court shall specify on the record and shall enter on
4 the minutes the circumstances indicating that the interests of justice
5 would best be served by this disposition.

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

18 (i) Notwithstanding Section 12026, any person who brings or
19 possesses a firearm upon the grounds of a campus of, or buildings
20 owned or operated for student housing, teaching, research, or
21 administration by, a public or private university or college, that
22 are contiguous or are clearly marked university property, unless
23 it is with the written permission of the university or college
24 president, his or her designee, or equivalent university or college
25 authority, shall be punished by imprisonment in the state prison
26 for one, two, or three years. Notwithstanding subdivision (k), a
27 university or college shall post a prominent notice at primary
28 entrances on noncontiguous property stating that firearms are
29 prohibited on that property pursuant to this subdivision.

30 (j) For purposes of this section, a firearm shall be deemed to be
31 loaded when there is an unexpended cartridge or shell, consisting
32 of a case that holds a charge of powder and a bullet or shot, in, or
33 attached in any manner to, the firearm, including, but not limited
34 to, in the firing chamber, magazine, or clip thereof attached to the
35 firearm. A muzzle-loader firearm shall be deemed to be loaded
36 when it is capped or primed and has a powder charge and ball or
37 shot in the barrel or cylinder.

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

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

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

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

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

SEC. 4. Section 12001 of the Penal Code is amended to read: 12001. (a) (1) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
15 12072, 12073, 12078, 12101, and 12801 of this code, and Sections
16 8100, 8101, and 8103 of the Welfare and Institutions Code,
17 notwithstanding the fact that the term “any firearm” may be used
18 in those sections, each firearm or the frame or receiver of the same
19 shall constitute a distinct and separate offense under those sections.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (11) The handgun is not an assault weapon, as defined in Section
16 12276 or 12276.1.

17 (12) The handgun is not a machinegun, as defined in Section
18 12200.

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

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

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

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

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

31 (q) As used in this code, “handgun safety certificate” means a
32 certificate issued by the Department of Justice pursuant to Article
33 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
34 4, as that article is operative on or after January 1, 2003.

35 (r) As used in this title, “gunsmith” means any person who is
36 licensed as a dealer pursuant to Chapter 44 (commencing with
37 Section 921) of Title 18 of the United States Code and the
38 regulations issued pursuant thereto, who is engaged primarily in
39 the business of repairing firearms, or making or fitting special

1 barrels, stocks, or trigger mechanisms to firearms, or the agent or
2 employee of that person.

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

10 SEC. 4.5. Section 12001 of the Penal Code is amended to read:

11 12001. (a) (1) As used in this title, the terms “pistol,”
12 “revolver,” and “firearm capable of being concealed upon the
13 person” shall apply to and include any device designed to be used
14 as a weapon, from which is expelled a projectile by the force of
15 any explosion, or other form of combustion, and that has a barrel
16 less than 16 inches in length. These terms also include any device
17 that has a barrel 16 inches or more in length which is designed to
18 be interchanged with a barrel less than 16 inches in length.

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

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

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

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

35 (e) For purposes of Sections 12037, 12070, 12071, and
36 paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and
37 (f) of Section 12072, the term “firearm” does not include an
38 unloaded firearm that is defined as an “antique firearm” in Section
39 921(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, until July 1, 2012, any reference to the term “personal firearm importer” shall be deemed to mean “personal handgun importer” and, on and after July 1, 2012, any reference to the term “personal handgun importer” shall be deemed to mean “personal firearm importer.” A “personal handgun importer,” until July 1, 2012, and commencing July 1, 2012, a “personal firearm 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 firearm.

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

(6) He or she moves into this state on or after January 1, 1998, in the case of a handgun, or in the case of a firearm that is not a handgun, on or after July 1, 2012, as a resident of this state.

(7) He or she intends to possess that handgun within this state on or after January 1, 1998, or in the case of a firearm that is not a handgun, he or she intends to possess that firearm within this state on or after July 1, 2012.

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

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

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

11 (11) The firearm is not an assault weapon, as defined in Section
12 12276 or 12276.1.

13 (12) The firearm is not a machinegun, as defined in Section
14 12200.

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

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

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

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

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

27 (q) As used in this code, “handgun safety certificate” means a
28 certificate issued by the Department of Justice pursuant to Article
29 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
30 4, as that article is operative on or after January 1, 2003.

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

38 (s) As used in this title, “consultant-evaluator” means a
39 consultant or evaluator who, in the course of his or her profession
40 is loaned firearms from a person licensed pursuant to Chapter 44

1 (commencing with Section 921) of Title 18 of the United States
2 Code and the regulations issued pursuant thereto, for his or her
3 research or evaluation, and has a current certificate of eligibility
4 issued to him or her pursuant to Section 12071.

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

6 12025. (a) A person is guilty of carrying a concealed firearm
7 when he or she does any of the following:

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

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

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

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

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

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

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

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

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

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

38 (A) Both the handgun and the unexpended ammunition capable
39 of being discharged from that firearm are either in the immediate
40 possession of the person or readily accessible to that person, or

1 the handgun is loaded as defined in subdivision (g) of Section
2 12031.

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

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

10 (c) A peace officer may arrest a person for a violation of
11 paragraph (6) of subdivision (b) if the peace officer has probable
12 cause to believe that the person is not listed with the Department
13 of Justice pursuant to paragraph (1) of subdivision (c) of Section
14 11106 as the registered owner of the handgun, and one or more of
15 the conditions in subparagraph (A) of paragraph (6) of subdivision
16 (b) are met.

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

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

30 (e) The court shall apply the three-month minimum sentence
31 as specified in subdivision (d), except in unusual cases where the
32 interests of justice would best be served by granting probation or
33 suspending the imposition or execution of sentence without the
34 minimum imprisonment required in subdivision (d) or by granting
35 probation or suspending the imposition or execution of sentence
36 with conditions other than those set forth in subdivision (d), in
37 which case, the court shall specify on the record and shall enter
38 on the minutes the circumstances indicating that the interests of
39 justice would best be served by that disposition.

(f) For purposes of this section, “lawful possession of the firearm” means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

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

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

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

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

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

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

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

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of

1 lawfully collecting and lawfully displaying pistols, revolvers, or
2 other firearms, while the member is at meetings of the clubs or
3 organizations or while going directly to, and coming directly from,
4 those meetings.

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

8 (4) The transportation of a firearm by a person listed in Section
9 12026 directly between any of the places mentioned in Section
10 12026.

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

15 (6) The transportation of a firearm by a person listed in Section
16 12026 when going directly from the place where that person
17 lawfully received that firearm to that person's place of residence
18 or place of business or to private property owned or lawfully
19 possessed by that person.

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

24 (8) The transportation of a firearm by an authorized employee
25 or agent of a supplier of firearms when going directly to, or coming
26 directly from, a motion picture, television, or video production or
27 entertainment event for the purpose of providing that firearm to
28 an authorized participant to lawfully use as a part of that production
29 or event.

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

34 (10) The transportation of a firearm by a person when going
35 directly to, or coming directly from, a place designated by a person
36 authorized to issue licenses pursuant to Section 12050 when done
37 at the request of the issuing agency so that the issuing agency can
38 determine whether or not a license should be issued to that person
39 to carry that firearm.

1 (11) The transportation of a firearm by a person when going
2 directly to, or coming directly from, a lawful camping activity for
3 the purpose of having that firearm available for lawful personal
4 protection while at the lawful campsite. This paragraph shall not
5 be construed to override the statutory authority granted to the
6 Department of Parks and Recreation or any other state or local
7 governmental agencies to promulgate rules and regulations
8 governing the administration of parks and campgrounds.

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

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

14 (14) The transportation of a firearm by a person when going
15 directly to, or coming directly from, a gun show or event, as
16 defined in Section 478.100 of Title 27 of the Code of Federal
17 Regulations, for the purpose of lawfully transferring, selling, or
18 loaning that firearm in accordance with subdivision (d) of Section
19 12072.

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

23 (16) The transportation of a firearm by a person who finds the
24 firearm in order to comply with Article 1 (commencing with
25 Section 2080) of Chapter 4 of Division 3 of the Civil Code as it
26 pertains to that firearm and if that firearm is being transported to
27 a law enforcement agency, the person gives prior notice to the law
28 enforcement agency that he or she is transporting the firearm to
29 the law enforcement agency.

30 (17) The transportation of a firearm by a person in order to
31 comply with paragraph (2) or (3) of subdivision (f) of Section
32 12072 as it pertains to that firearm.

33 (18) The transportation of a firearm by a person who finds the
34 firearm and is transporting it to a law enforcement agency for
35 disposition according to law, if he or she gives prior notice to the
36 law enforcement agency that he or she is transporting the firearm
37 to the law enforcement agency for disposition according to law.

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

(20) The transportation by a member of an organization of a firearm directly to, or directly from, official parade duty or ceremonial occasions of that organization, or a place for the purpose of rehearsing or practicing for official parade duty or ceremonial occasions of that organization, if the organization is chartered by the Congress of the United States, or is a nonprofit mutual or public benefit corporation organized and recognized as a nonprofit tax-exempt organization by the Internal Revenue Service.

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

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

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

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

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

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

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

(2) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law.

1 However, an act or omission punishable in different ways by
2 different provisions of law shall not be punished under more than
3 one provision.

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

6 (1) The open carrying of an unloaded handgun by any peace
7 officer or any honorably retired peace officer if he or she may
8 carry a concealed firearm pursuant to Section 12027 or a loaded
9 firearm pursuant to Section 12031.

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

13 (3) The open carrying of an unloaded handgun as merchandise
14 by a person who is engaged in the business of manufacturing,
15 importing, wholesaling, repairing, or dealing in firearms and who
16 is licensed to engage in that business or the authorized
17 representative or authorized agent of that person while engaged
18 in the lawful course of the business.

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

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

28 (6) The open carrying of an unloaded handgun by a licensed
29 hunter while engaged in hunting or while transporting that handgun
30 when going to or returning from that hunting expedition.

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

35 (8) The open carrying of an unloaded handgun by a member of
36 an organization chartered by the Congress of the United States or
37 a nonprofit mutual or public benefit corporation organized and
38 recognized as a nonprofit tax-exempt organization by the Internal
39 Revenue Service while on official parade duty or ceremonial

1 occasions of that organization or while rehearsing or practicing
2 for official parade duty or ceremonial occasions.

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

5 (10) The open carrying of an unloaded handgun within a school
6 zone, as defined in Section 626.9, with the written permission of
7 the school district superintendent, his or her designee, or equivalent
8 school authority.

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

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

14 (13) The open carrying of an unloaded handgun incident to
15 loaning, selling, or transferring the same in accordance with Section
16 12072 or any of the exemptions from subdivision (d) of Section
17 12072 so long as that handgun is possessed within private property
18 and the possession and carrying is with the permission of the owner
19 or lessee of that private property.

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

26 (15) The open carrying of an unloaded handgun by an authorized
27 participant in, or an authorized employee or agent of a supplier of
28 firearms for, a motion picture, television or video production, or
29 entertainment event when the participant lawfully uses the handgun
30 as part of that production or event, as part of rehearsing or
31 practicing for participation in that production or event, or while
32 the participant or authorized employee or agent is at that production
33 or event, or rehearsal or practice for that production or event.

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

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

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

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

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

8 (B) Subdivision (l) of Section 12078 as it pertains to that
9 handgun.

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

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

14 (20) The open carrying of an unloaded handgun incident to and
15 in the course and scope of training of or by an individual to become
16 a sworn peace officer as part of a course of study approved by the
17 Commission on Peace Officer Standards and Training.

18 (21) The open carrying of an unloaded handgun incident to and
19 in the course and scope of training of or by an individual to become
20 licensed pursuant to Section 12050 as part of a course of study
21 necessary or authorized by the person authorized to issue the
22 license pursuant to Section 12050.

23 (22) The open carrying of an unloaded handgun incident to and
24 at the request of a sheriff or chief or other head of a municipal
25 police department.

26 (23) The open carrying of an unloaded handgun by a person
27 when done within a place of business, a place of residence, or on
28 private property, if done with the permission of a person who, by
29 virtue of subdivision (a) of Section 12026, may carry openly an
30 unloaded handgun within that place of business, place of residence,
31 or on that private property owned or lawfully possessed by that
32 person.

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

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

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

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

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

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

(g) The open carrying of an unloaded handgun pursuant to paragraph (3) of subdivision (b) of Section 171c is not a violation of this section. Operation of this subdivision is contingent on AB 2668 adding Section 171c to the Penal Code, and being enacted and becoming effective on or before January 1, 2011.

(h) The open carrying of an unloaded handgun pursuant to subparagraph (F) of paragraph (1) of subdivision (c) of Section 171.7 is not a violation of this section. Operation of this subdivision is contingent on AB 2324 adding Section 171.7 to the Penal Code, and being enacted and becoming effective on or before January 1, 2011.

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

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

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

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

(3) Carries a deadly weapon.

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

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

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

(c) Section 12027 shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a), nor shall

1 subdivision (b) of Section 12031 be construed to authorize any
2 conduct described in paragraph (2) of subdivision (a), nor shall
3 subdivision (d) of Section 12037 be construed to authorize any
4 conduct described in paragraph (5) of subdivision (a).

5 SEC. 9.5. Section 4.5 of this bill incorporates amendments to
6 Section 12001 of the Penal Code proposed by both this bill and
7 AB 1810. It shall only become operative if (1) both bills are
8 enacted and become effective on or before January 1, 2011, (2)
9 each bill amends Section 12001 of the Penal Code, and (3) this
10 bill is enacted after AB 1810, in which case Section 4 of this bill
11 shall not become operative.

12 SEC. 10. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.