

Introduced by Senator Johannessen

February 21, 2002

An act to amend Sections 12285 and 12807 of the Penal Code, relating to assault weapons.

LEGISLATIVE COUNSEL'S DIGEST

SB 1615, as introduced, Johannessen. Assault weapons.

Existing law generally prohibits the sale or transfer of assault weapons, other than to a gun dealer, after specified dates. Existing law generally requires persons who lawfully possess assault weapons to register them. Existing law provides that any person who obtains title to a registered assault weapon, as specified, by bequest or intestate succession, or who lawfully possessed a firearm subsequently declared to be an assault weapon, or subsequently defined as an assault weapon, as specified, shall, within 90 days, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit for the weapon, as specified, or remove the weapon from this state.

This bill would revise those provisions, delete the provision requiring a permit be obtained, and provide that in either circumstance the person may also register the assault weapon, as specified.

Existing law prohibits any person under the age of 18 years from registering or possessing an assault weapon.

This bill would revise those provisions and provide an exception to that prohibition in the case where the assault weapon is jointly registered with a family member, as specified.

Existing law, subject to exceptions, requires a handgun safety certificate for the recipient of a handgun for sales and other transfers of handguns, as specified.

This bill would add to those persons exempt from those requirements, persons who have been honorably discharged from the United States armed forces, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12285 of the Penal Code is amended to
2 read:

3 12285. (a) Any person who lawfully possesses an assault
4 weapon, as defined in Section 12276, prior to June 1, 1989, shall
5 register the firearm by January 1, 1991, and any person who
6 lawfully possessed an assault weapon prior to the date it was
7 specified as an assault weapon pursuant to Section 12276.5 shall
8 register the firearm within 90 days with the Department of Justice
9 pursuant to those procedures that the department may establish.
10 Except as provided in subdivision (a) of Section 12280, any person
11 who lawfully possessed an assault weapon prior to the date it was
12 defined as an assault weapon pursuant to Section 12276.1, and
13 which was not specified as an assault weapon under Section 12276
14 or 12276.5, shall register the firearm within one year of the
15 effective date of Section 12276.1, with the department pursuant to
16 those procedures that the department may establish. The
17 registration shall contain a description of the firearm that identifies
18 it uniquely, including all identification marks, the full name,
19 address, date of birth, and thumbprint of the owner, and any other
20 information that the department may deem appropriate. The
21 department may charge a fee for registration of up to twenty
22 dollars (\$20) per person but not to exceed the actual processing
23 costs of the department. After the department establishes fees
24 sufficient to reimburse the department for processing costs, fees
25 charged shall increase at a rate not to exceed the legislatively
26 approved annual cost-of-living adjustment for the department's
27 budget or as otherwise increased through the Budget Act.

28 (b) (1) (A) Except as provided in paragraph (2), no assault
29 weapon possessed pursuant to this section may be sold or
30 transferred on or after January 1, 1990, to anyone within this state
31 other than to a licensed gun dealer, as defined in subdivision (c) of
32 Section 12290, or as provided in Section 12288. ~~Any~~



1 (B) Any person who (A) obtains title to an assault weapon
2 registered under this section or that was possessed pursuant to
3 subdivision (g) or (i) of Section 12280 by bequest or intestate
4 succession, ~~or (B) lawfully possessed a firearm subsequently~~
5 ~~declared to be an assault weapon pursuant to Section 12276.5, or~~
6 ~~subsequently defined as an assault weapon pursuant to Section~~
7 ~~12276.1, shall, within 90 days, render do one of the following:~~

- 8 (i) ~~Render the weapon permanently inoperable, sell.~~
- 9 (ii) ~~Sell the weapon to a licensed gun dealer, obtain a permit~~
10 ~~from the Department of Justice in the same manner as specified in~~
11 ~~Article 3 (commencing with Section 12230) of Chapter 2, or~~
12 ~~remove.~~
- 13 (iii) *Register the weapon with the Department of Justice*
14 *pursuant to this section in accordance with procedures adopted by*
15 *the department.*

16 (iv) *Remove the weapon from this state.*
17 (C) Any person who lawfully possessed a firearm subsequently
18 declared to be an assault weapon pursuant to Section 12276.5, or
19 subsequently defined as an assault weapon pursuant to Section
20 12276.1, shall, within 90 days, do one of the following:

- 21 (i) *Render the weapon permanently inoperable.*
- 22 (ii) *Sell the weapon to a licensed gun dealer.*
- 23 (iii) *Register the weapon with the Department of Justice*
24 *pursuant to this section in accordance with procedures adopted by*
25 *the department.*
- 26 (iv) *Remove the weapon from this state.*

27 (D) A person who lawfully possessed a firearm that was
28 subsequently declared to be an assault weapon pursuant to Section
29 12276.5 may alternatively register the firearm within 90 days of
30 the declaration issued pursuant to subdivision (f) of Section
31 12276.5.

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

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

38 (B) The person shall cause the assault weapon to be delivered
39 to a licensed gun dealer, as defined in subdivision (c) of Section
40 12290, in this state in accordance with Chapter 44 (commencing



1 with Section 921) of Title 18 of the United States Code and the
2 regulations issued pursuant thereto. If the person obtains a permit
3 from the Department of Justice in the same manner as specified in
4 Article 3 (commencing with Section 12230) of Chapter 2, the
5 dealer shall redeliver that assault weapon to the person. If the
6 licensed gun dealer, as defined in subdivision (c) of Section 12290,
7 is prohibited from delivering the assault weapon to a person
8 pursuant to this paragraph, the dealer shall possess or dispose of
9 the assault weapon as allowed by this chapter.

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

14 (1) At that person’s residence, place of business, or other
15 property owned by that person, or on property owned by another
16 with the owner’s express permission.

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

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

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

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

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

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

37 ~~(d) No person who is under the age of 18 years, no person who~~
38 ~~is prohibited from possessing a firearm by Section 12021 or~~
39 ~~12021.1, and no person described in Section 8100 or 8103 of the~~



1 ~~Welfare and Institutions Code may register or possess an assault~~
2 ~~weapon.~~

3
4 @@@@*(1) Except as provided in subdivision (e), no person*
5 *who is under the age of 18 years may register or possess an assault*
6 *weapon.*

7 *(2) No person who is prohibited from possessing a firearm by*
8 *Section 12021 or 12021.1 may register or possess an assault*
9 *weapon.*

10 (e) The department's registration procedures shall provide the
11 option of joint registration for assault weapons *in the following*
12 *circumstances:*

13 *(1) Where the assault weapon is owned by family members*
14 *residing in the same household.*

15 *(2) Where the owners are parent and child.*

16 *(3) The owners are legal guardian and child.*

17 *(4) Where the owners are grandparents and grandchildren and*
18 *the parent or legal guardian of the child consents to joint*
19 *registration of the weapon.*

20 (f) For 90 days following January 1, 1992, a forgiveness period
21 shall exist to allow persons specified in subdivision (b) of Section
22 12280 to register with the Department of Justice assault weapons
23 that they lawfully possessed prior to June 1, 1989.

24 (g) Any person who registered a firearm as an assault weapon
25 pursuant to the provisions of law in effect prior to January 1, 2000,
26 where the assault weapon is thereafter defined as an assault
27 weapon pursuant to Section 12276.1, shall be deemed to have
28 registered the weapon for purposes of this chapter and shall not be
29 required to reregister the weapon pursuant to this section.

30 (h) Any person who registers his or her assault weapon during
31 the 90-day forgiveness period described in subdivision (f), and any
32 person whose registration form was received by the Department
33 of Justice after January 1, 1991, and who was issued a temporary
34 registration prior to the end of the forgiveness period, shall not be
35 charged with a violation of subdivision (b) of Section 12280, if law
36 enforcement becomes aware of that violation only as a result of the
37 registration of the assault weapon. This subdivision shall have no
38 effect upon persons charged with a violation of subdivision (b) of
39 Section 12280 of the Penal Code prior to January 1, 1992,



1 provided that law enforcement was aware of the violation before
2 the weapon was registered.

3 SEC. 2. Section 12807 of the Penal Code is amended to read:
4 12807. (a) The following persons, properly identified, are
5 exempted from the handgun safety certificate requirement in
6 subdivision (b) of Section 12801:

7 (1) Any active or honorably retired peace officer, as defined in
8 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

9 (2) Any active or honorably retired federal officer or law
10 enforcement agent.

11 (3) Any reserve peace officer, as defined in Section 832.6.

12 (4) Any person who has successfully completed the course of
13 training specified in Section 832.

14 (5) A firearms dealer licensed pursuant to Section 12071, who
15 is acting in the course and scope of his or her activities as a person
16 licensed pursuant to Section 12071.

17 (6) A federally licensed collector who is acquiring or being
18 loaned a handgun that is a curio or relic, as defined in Section
19 178.11 of Title 27 of the Code of Federal Regulations, who has a
20 current certificate of eligibility issued to him or her by the
21 department pursuant to Section 12071.

22 (7) A person to whom a handgun is being returned, where the
23 person receiving the firearm is the owner of the firearm.

24 (8) A family member of a peace officer or deputy sheriff from
25 a local agency who receives a firearm pursuant to Section 50081
26 of the Government Code.

27 (9) Any individual who has a valid concealed weapons permit
28 issued pursuant to Section 12050.

29 (10) An active, or honorably retired member of the United
30 States Armed Forces, the National Guard, the Air National Guard,
31 the active reserve components of the United States, where
32 individuals in those organizations are properly identified. For
33 purposes of this section, proper identification includes the Armed
34 Forces Identification Card, or other written documentation
35 certifying that the individual is an active or honorably retired
36 member.

37 (11) Any person who is authorized to carry loaded firearms
38 pursuant to subdivision (c) or (d) of Section 12031.



1 (12) Persons who are the holders of a special weapons permit
2 issued by the department pursuant to Section 12095, 12230,
3 12250, or 12305.

4 (13) *Any person honorably discharged from the United States*
5 *Armed Forces, the National Guard, the Air National Guard, or*
6 *active reserve components of the United States who is properly*
7 *identified. For purposes of this subdivision, proper identification*
8 *includes a Retired Armed Forces identification card, or other*
9 *written document certifying the person as being honorably*
10 *discharged.*

11 (b) The following persons who take title or possession of a
12 handgun by operation of law in a representative capacity, until or
13 unless they transfer title *or* ownership of the handgun to
14 themselves in a personal capacity, are exempted from the handgun
15 safety certificate requirement in subdivision (b) of Section 12801:

- 16 (1) The executor or administrator of an estate.
- 17 (2) A secured creditor or an agent or employee thereof when the
18 firearms are possessed as collateral for, or as a result of, or an agent
19 or employee thereof when the firearms are possessed as collateral
20 for, or as a result of, a default under a security agreement under the
21 Commercial Code.
- 22 (3) A levying officer, as defined in Section 481.140, 511.060,
23 or 680.260 of the Code of Civil Procedure.
- 24 (4) A receiver performing his or her functions as a receiver.
- 25 (5) A trustee in bankruptcy performing his or her duties.
- 26 (6) An assignee for the benefit of creditors performing his or
27 her functions as an assignee.

