

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 776

Introduced by Senator Hancock
(Principal coauthor: Assembly Member Swanson)

February 27, 2009

An act to amend ~~Section 8090~~ of Sections 11106, 12020, and 12079 of, and to add Section 12044 to, the Penal Code, relating to ~~punishment~~ firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 776, as amended, Hancock. ~~Punishment: community-based punishment programs.~~ *Firearms: large-capacity magazines.*

Existing law requires the Department of Justice to maintain certain information related to firearms transactions.

This bill would extend those provisions to information concerning the registration of large-capacity magazines, as specified.

Existing provides that commencing January 1, 2000, and subject to exceptions, any person who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends any large-capacity magazine is guilty of an offense.

This bill would, commencing January 1, 2011, and subject to specified exceptions, prohibit the possession of large-capacity magazines. Violation of these provisions would be punishable by imprisonment in a county jail not exceeding one year.

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

This bill would, commencing January 1, 2011, and subject to exceptions, require registration of large-capacity magazines with the

Department of Justice. The bill would require registration of large-capacity magazines no later than January 1, 2011, for magazines that are already possessed, as specified, and would provide that large-capacity magazines acquired after January 1, 2011, be registered within 30 days of taking possession. The bill would establish exceptions to these provisions. The bill would require local and state entities to register their large-capacity magazines as institutionally owned, as specified, and would require those entities to report to the department the disposition of large-capacity magazines by those entities that constitute a nuisance, as specified. The bill would authorize the Department of Justice to charge a fee, not to exceed \$20, for registration of large-capacity magazines, and would authorize increases in that fee, as specified. The bill would exempt local and state entities from that registration fee.

By imposing additional duties on local governments in connection with the registration of large-capacity magazines and the disposition of large-capacity magazines that are a nuisance, this bill would impose a state-mandated local program.

Existing law authorizes the Department of Justice to issue a permit to a licensed firearms dealer for the purpose of transporting, possessing, and selling a large-capacity magazine to an out-of-state purchaser.

This bill would require the registration of large-capacity magazines that are subject to those provisions, and notification to the department of the identity of the purchaser, as specified

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law, the Community-Based Punishment Act, establishes the state's community-based punishment plan. Existing law provides that the act shall be administered by the Corrections Standards Authority. Existing law provides that implementation of these provisions is contingent upon the availability of funding and that funding for community-based programs shall be administered by the authority from~~

~~funds appropriated by the Legislature or from a variety of sources, including federal funds for community-based punishment programs.~~

~~This bill would allow the use of federal funds that are not designated for community-based programs.~~

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

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

1 SECTION 1. Section 11106 of the Penal Code is amended to
2 read:

3 11106. (a) In order to assist in the investigation of crime, the
4 prosecution of civil actions by city attorneys pursuant to paragraph
5 (3) of subdivision (c), the arrest and prosecution of criminals, and
6 the recovery of lost, stolen, or found property, the Attorney General
7 shall keep and properly file a complete record of all copies of
8 fingerprints, copies of licenses to carry firearms issued pursuant
9 to Section 12050, information reported to the Department of Justice
10 pursuant to Section 12053, *information reported to the Department*
11 *of Justice pursuant to Section 12044 or 12079*, dealers' records of
12 sales of firearms, reports provided pursuant to Section 12072 or
13 12078, forms provided pursuant to Section 12084, as that section
14 read prior to being repealed by the act that amended this section,
15 reports provided pursuant to Section 12071 that are not dealers'
16 records of sales of firearms, and reports of stolen, lost, found,
17 pledged, or pawned property in any city or county of this state,
18 and shall, upon proper application therefor, furnish this information
19 to the officers referred to in Section 11105.

20 (b) (1) Except as provided in subdivision (d), the Attorney
21 General shall not retain or compile any information from reports
22 filed pursuant to subdivision (a) of Section 12078 for firearms that
23 are not handguns, from forms submitted pursuant to Section 12084,
24 as that section read prior to being repealed by the act that amended
25 this section, for firearms that are not handguns, or from dealers'
26 records of sales for firearms that are not handguns. All copies of
27 the forms submitted, or any information received in electronic
28 form, pursuant to Section 12084, as that section read prior to being
29 repealed by the act that amended this section, for firearms that are
30 not handguns, or of the dealers' records of sales for firearms that
31 are not handguns shall be destroyed within five days of the

1 clearance by the Attorney General, unless the purchaser or
2 transferor is ineligible to take possession of the firearm. All copies
3 of the reports filed, or any information received in electronic form,
4 pursuant to subdivision (a) of Section 12078 for firearms that are
5 not handguns shall be destroyed within five days of the receipt by
6 the Attorney General, unless retention is necessary for use in a
7 criminal prosecution.

8 (2) A peace officer, the Attorney General, a Department of
9 Justice employee designated by the Attorney General, or any
10 authorized local law enforcement employee shall not retain or
11 compile any information from a firearms transaction record, as
12 defined in paragraph (5) of subdivision (c) of Section 12071, for
13 firearms that are not handguns unless retention or compilation is
14 necessary for use in a criminal prosecution or in a proceeding to
15 revoke a license issued pursuant to Section 12071.

16 (3) A violation of this subdivision is a misdemeanor.

17 (c) (1) The Attorney General shall permanently keep and
18 properly file and maintain all information reported to the
19 Department of Justice pursuant to Sections 12071, 12072, 12078,
20 12082, and former Section 12084 or any other law, as to handguns
21 and maintain a registry thereof.

22 (2) The registry shall consist of all of the following:

23 (A) The name, address, identification of, place of birth (state
24 or country), complete telephone number, occupation, sex,
25 description, and all legal names and aliases ever used by the owner
26 or person being loaned the particular handgun as listed on the
27 information provided to the department on the Dealers' Record of
28 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
29 in former Section 12084, or reports made to the department
30 pursuant to Section 12078 or any other law.

31 (B) The name and address of, and other information about, any
32 person (whether a dealer or a private party) from whom the owner
33 acquired or the person being loaned the particular handgun and
34 when the firearm was acquired or loaned as listed on the
35 information provided to the department on the Dealers' Record of
36 Sale, the LEFT, or reports made to the department pursuant to
37 Section 12078 or any other law.

38 (C) Any waiting period exemption applicable to the transaction
39 which resulted in the owner of or the person being loaned the
40 particular handgun acquiring or being loaned that firearm.

1 (D) The manufacturer's name if stamped on the firearm, model
2 name or number if stamped on the firearm, and, if applicable, the
3 serial number, other number (if more than one serial number is
4 stamped on the firearm), caliber, type of firearm, if the firearm is
5 new or used, barrel length, and color of the firearm.

6 (3) Information in the registry referred to in this subdivision
7 shall, upon proper application therefor, be furnished to the officers
8 referred to in Section 11105, to a city attorney prosecuting a civil
9 action, solely for use in prosecuting that civil action and not for
10 any other purpose, or to the person listed in the registry as the
11 owner or person who is listed as being loaned the particular
12 handgun.

13 (4) If any person is listed in the registry as the owner of a firearm
14 through a Dealers' Record of Sale prior to 1979, and the person
15 listed in the registry requests by letter that the Attorney General
16 store and keep the record electronically, as well as in the record's
17 existing photographic, photostatic, or nonerasable optically stored
18 form, the Attorney General shall do so within three working days
19 of receipt of the request. The Attorney General shall, in writing,
20 and as soon as practicable, notify the person requesting electronic
21 storage of the record that the request has been honored as required
22 by this paragraph.

23 (d) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
24 of subdivision (b) of Section 11105 may disseminate the name of
25 the subject of the record, the number of the firearms listed in the
26 record, and the description of any firearm, including the make,
27 model, and caliber, from the record relating to any firearm's sale,
28 transfer, registration, or license record, or any information reported
29 to the Department of Justice pursuant to Section 12021.3, 12053,
30 12071, 12072, 12077, 12078, 12082, or 12285, if the following
31 conditions are met:

32 (A) The subject of the record has been arraigned for a crime in
33 which the victim is a person described in subdivisions (a) to (f),
34 inclusive, of Section 6211 of the Family Code and is being
35 prosecuted or is serving a sentence for the crime, or the subject of
36 the record is the subject of an emergency protective order, a
37 temporary restraining order, or an order after hearing, which is in
38 effect and has been issued by a family court under the Domestic
39 Violence Protection Act set forth in Division 10 (commencing
40 with Section 6200) of the Family Code.

1 (B) The information is disseminated only to the victim of the
2 crime or to the person who has obtained the emergency protective
3 order, the temporary restraining order, or the order after hearing
4 issued by the family court.

5 (C) Whenever a law enforcement officer disseminates the
6 information authorized by this subdivision, that officer or another
7 officer assigned to the case shall immediately provide the victim
8 of the crime with a “Victims of Domestic Violence” card, as
9 specified in subparagraph (H) of paragraph (9) of subdivision (c)
10 of Section 13701.

11 (2) The victim or person to whom information is disseminated
12 pursuant to this subdivision may disclose it as he or she deems
13 necessary to protect himself or herself or another person from
14 bodily harm by the person who is the subject of the record.

15 *SEC. 2. Section 12020 of the Penal Code is amended to read:*

16 12020. (a) (1) Any person in this state who does any of the
17 following is punishable by imprisonment in a county jail not
18 exceeding one year or in the state prison:

19 (1)

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

35 (2)

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

40 (3)

1 (C) Carries concealed upon his or her person any explosive
2 substance, other than fixed ammunition.

3 ~~(4)~~

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

5 (2) *Commencing January 1, 2011, any person who possess a*
6 *large-capacity magazine is punishable by imprisonment in a county*
7 *jail not exceeding one year.*

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

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

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

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

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

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

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

11 (6) Tracer ammunition manufactured for use in shotguns.

12 (7) Any firearm or ammunition that is a curio or relic as defined
13 in Section 478.11 of Title 27 of the Code of Federal Regulations
14 and which is in the possession of a person permitted to possess the
15 items pursuant to Chapter 44 (commencing with Section 921) of
16 Title 18 of the United States Code and the regulations issued
17 pursuant thereto. Any person prohibited by Section 12021, 12021.1,
18 or 12101 of this code or Section 8100 or 8103 of the Welfare and
19 Institutions Code from possessing firearms or ammunition who
20 obtains title to these items by bequest or intestate succession may
21 retain title for not more than one year, but actual possession of
22 these items at any time is punishable pursuant to Section 12021,
23 12021.1, or 12101 of this code or Section 8100 or 8103 of the
24 Welfare and Institutions Code. Within the year, the person shall
25 transfer title to the firearms or ammunition by sale, gift, or other
26 disposition. Any person who violates this paragraph is in violation
27 of subdivision (a).

28 (8) Any other weapon as defined in subsection (e) of Section
29 5845 of Title 26 of the United States Code and which is in the
30 possession of a person permitted to possess the weapons pursuant
31 to the federal Gun Control Act of 1968 (Public Law 90-618), as
32 amended, and the regulations issued pursuant thereto. Any person
33 prohibited by Section 12021, 12021.1, or 12101 of this code or
34 Section 8100 or 8103 of the Welfare and Institutions Code from
35 possessing these weapons who obtains title to these weapons by
36 bequest or intestate succession may retain title for not more than
37 one year, but actual possession of these weapons at any time is
38 punishable pursuant to Section 12021, 12021.1, or 12101 of this
39 code or Section 8100 or 8103 of the Welfare and Institutions Code.
40 Within the year, the person shall transfer title to the weapons by

1 sale, gift, or other disposition. Any person who violates this
2 paragraph is in violation of subdivision (a). The exemption
3 provided in this subdivision does not apply to pen guns.

4 (9) Instruments or devices that are possessed by federal, state,
5 and local historical societies, museums, and institutional collections
6 which are open to the public, provided that these instruments or
7 devices are properly housed, secured from unauthorized handling,
8 and, if the instrument or device is a firearm, unloaded.

9 (10) Instruments or devices, other than short-barreled shotguns
10 or short-barreled rifles, that are possessed or utilized during the
11 course of a motion picture, television, or video production or
12 entertainment event by an authorized participant therein in the
13 course of making that production or event or by an authorized
14 employee or agent of the entity producing that production or event.

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

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

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

39 (14) The manufacture for, sale to, exposing or keeping for sale
40 to, importation of, or lending of wooden clubs or batons to special

1 police officers or uniformed security guards authorized to carry
2 any wooden club or baton pursuant to Section 12002 by entities
3 that are in the business of selling wooden batons or clubs to special
4 police officers and uniformed security guards when engaging in
5 transactions with those persons.

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

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

14 (A) The person is not prohibited from possessing firearms or
15 ammunition pursuant to Section 12021 or 12021.1 or paragraph
16 (1) of subdivision (b) of Section 12316 of this code or Section
17 8100 or 8103 of the Welfare and Institutions Code.

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

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

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

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

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

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

38 (D) Prior to transporting the firearm to a law enforcement
39 agency, he or she has given prior notice to that law enforcement

1 agency that he or she is transporting the firearm to that law
2 enforcement agency for disposition according to law.

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

5 (18) The possession of any weapon, *large-capacity magazines*,
6 device, or ammunition, by a forensic laboratory or any authorized
7 agent or employee thereof in the course and scope of his or her
8 authorized activities.

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

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

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

23 (22) The loan of a lawfully possessed large-capacity magazine
24 between two individuals *and possession by the person to whom*
25 *the magazine was loaned* if all of the following conditions are met:

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

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

35 (C) *Commencing January 1, 2011, the person loaning the*
36 *large-capacity magazine is the registered owner.*

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

1 returning to the state with the large-capacity magazine previously
2 lawfully possessed in the state.

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

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

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

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

18 (28) The lending of large-capacity magazines by the entities
19 specified in paragraph (27) to their authorized employees; *and*
20 *possession of large-capacity magazines by those employees* while
21 in the course and scope of their employment for purposes that
22 pertain to the entity's armored vehicle business.

23 (29) The return of those large-capacity magazines to those
24 entities specified in paragraph (27) by those employees specified
25 in paragraph (28).

26 (30) (A) The manufacture *and possession* of a large-capacity
27 magazine for any federal, state, county, city and county, or city
28 agency that is charged with the enforcement of any law, for use
29 by agency employees in the discharge of their official duties
30 whether on or off duty, and where the use is authorized by the
31 agency and is within the course and scope of their duties.

32 (B) The manufacture *and possession* of a large-capacity
33 magazine for use by a sworn peace officer as defined in Chapter
34 4.5 (commencing with Section 830) of Title 3 of Part 2 who is
35 authorized to carry a firearm in the course and scope of his or her
36 duties.

37 (C) The manufacture *and possession* of a large-capacity
38 magazine for export or for sale to government agencies or the
39 military pursuant to applicable federal regulations.

1 (31) The loan of a large-capacity magazine for use solely as a
2 prop for a motion picture, television, or video production *and*
3 *possession by the person to whom the magazine was loaned if,*
4 *commencing January 1, 2011, the person or entity loaning the*
5 *large-capacity magazine is the registered owner.*

6 (32) The purchase of a large-capacity magazine by the holder
7 of a special weapons permit issued pursuant to Section 12095,
8 12230, 12250, 12286, or 12305, for any of the following purposes:

9 (A) For use solely as a prop for a motion picture, television, or
10 video production.

11 (B) For export pursuant to federal regulations.

12 (C) For resale to law enforcement agencies, government
13 agencies, or the military, pursuant to applicable federal regulations.

14 (33) *The possession of a large-capacity magazine by any of the*
15 *following:*

16 (A) *The registered owner of the large-capacity magazine.*

17 (B) *A person who possesses a large-capacity magazine incident*
18 *to and during the course and scope of employment or activities as*
19 *an employee or agent of a person licensed pursuant to Section*
20 *12071, 12095, 12230, 12250, 12286, or 12305.*

21 (C) *An executor or administrator of an estate that includes an*
22 *assault weapon or a .50 BMG rifle that is registered, if the*
23 *large-capacity magazine is possessed at the same time and place*
24 *as the assault weapon or the .50 BMG rifle.*

25 (34) *The giving, returning, and possessing of a large-capacity*
26 *magazine for purposes of registering it.*

27 (35) *The possession of a large-capacity magazine by a dealer*
28 *or a gunsmith for purposes of maintenance, repair, or modification.*

29 (36) *The possession of a large-capacity magazine during the*
30 *applicable grace period for registration pursuant to Section 12044*
31 *by a person or executor who lawfully acquired ownership or*
32 *possession of it.*

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

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

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

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

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

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

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

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

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

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

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

26 (E) Any part, or combination of parts, designed and intended
27 to convert a device into a device defined in subparagraphs (A) to
28 (C), inclusive, or any combination of parts from which a device
29 defined in subparagraphs (A) to (C), inclusive, may be readily
30 assembled if those parts are in the possession or under the control
31 of the same person.

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

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

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

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

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

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

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

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

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

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

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

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

34 (A) It was not imported as a firearm by an importer licensed
35 pursuant to Chapter 44 (commencing with Section 921) of Title
36 18 of the United States Code and the regulations issued pursuant
37 thereto.

38 (B) It was not originally designed to be a firearm by a
39 manufacturer licensed pursuant to Chapter 44 (commencing with

1 Section 921) of Title 18 of the United States Code and the
2 regulations issued pursuant thereto.

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

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

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

16 (12) As used in this section, an “unconventional pistol” means
17 a firearm that does not have a rifled bore and has a barrel or barrels
18 of less than 18 inches in length or has an overall length of less than
19 26 inches.

20 (13) As used in this section, a “belt buckle knife” is a knife
21 which is made an integral part of a belt buckle and consists of a
22 blade with a length of at least 2 ½ inches.

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

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

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

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

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

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

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

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

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

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

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

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

32 All firearm detection equipment newly installed in nonfederal
33 public buildings in this state shall be of a type identified by either
34 the United States Attorney General, the Secretary of Transportation,
35 or the Secretary of the Treasury, as appropriate, as available
36 state-of-the-art equipment capable of detecting an undetectable
37 firearm, as defined, while distinguishing innocuous metal objects
38 likely to be carried on one’s person sufficient for reasonable
39 passage of the public.

1 (23) As used in this section, a “multiburst trigger activator”
2 means one of the following devices:

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

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

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

17 (25) As used in this ~~section~~ title, “large-capacity magazine”
18 means any ammunition feeding device with the capacity to accept
19 more than 10 rounds, but shall not be construed to include any of
20 the following:

21 (A) A feeding device that has been permanently altered so that
22 it cannot accommodate more than 10 rounds.

23 (B) A .22 caliber tube ammunition feeding device.

24 (C) A tubular magazine that is contained in a lever-action
25 firearm.

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

29 *SEC. 3. Section 12044 is added to the Penal Code, to read:*

30 *12044. (a) (1) A person who acquired ownership of a*
31 *large-capacity magazine prior to January 1, 2000, or after January*
32 *1, 2000, and prior to January 1, 2011, acquired a large-capacity*
33 *magazine pursuant to subdivision (b) of Section 12020, shall*
34 *register the magazine with the Department of Justice no later than*
35 *January 1, 2011.*

36 *(2) Commencing January 1, 2011, a person who acquires*
37 *ownership of a large-capacity magazine pursuant to subdivision*
38 *(b) of Section 12020, or pursuant to a permit issued pursuant to*
39 *Section 12079, shall register the magazine with the Department*
40 *of Justice within 30 days of taking possession of the magazine.*

1 (3) Commencing January 1, 2011, a person who is an executor
2 or administrator of an estate that includes a large-capacity
3 magazine shall register the magazine with the Department of
4 Justice within 30 days of taking possession of the magazine, unless
5 the estate also includes a registered assault weapon or registered
6 .50 BMG rifle.

7 (4) Commencing January 1, 2011, all cities, counties and cities,
8 counties, and entities of the state that own large-capacity
9 magazines shall register them with the Department of Justice as
10 institutionally owned large-capacity magazines.

11 (5) Commencing January 1, 2011, all cities, counties and cities,
12 counties, and entities of the state that come into possession of a
13 large-capacity magazine that is a nuisance pursuant to Section
14 12029 shall report the disposition of the magazine to the
15 Department of Justice.

16 (6) In the case of registration under paragraphs (1) to (3),
17 inclusive, the registration shall contain a description of the
18 large-capacity magazine that identifies it uniquely, including all
19 identification marks, and the full name, address, date of birth, and
20 thumbprint of the owner, and any other information that the
21 Department of Justice deems appropriate.

22 (7) In the case of registration by a person who also has been
23 issued a permit pursuant to Section 12079, 12095, 12230, 12250,
24 12286, or 12305, or is a dealer, the Department of Justice shall
25 adopt procedures to identify which permitholder or dealer
26 possesses which large-capacity magazine.

27 (8) The department may charge a fee for registrations under
28 paragraphs (1) to (3), inclusive, of up to twenty dollars (\$20) per
29 person, but not to exceed actual costs. The fee may be increased
30 annually not to exceed the annual cost-of-living adjustment for
31 the Department of Justice's budget or as otherwise increased in
32 the annual Budget Act. The fees shall be deposited in the Dealers'
33 Record of Sale Special Account. No fees shall be charged for
34 registrations under paragraph (4).

35 (b) Registration under this section shall be denied for any person
36 who is barred from possessing a large-capacity magazine by virtue
37 of Section 12316, or who has violated paragraph (2) of subdivision
38 (a) of Section 12020.

39 SEC. 4. Section 12079 of the Penal Code is amended to read:

1 12079. (a) Upon a showing that good cause exists, the
2 Department of Justice may issue permits for the possession,
3 transportation, or sale between a person licensed pursuant to
4 Section 12071 and an out-of-state client, of large capacity
5 magazines.

6 ~~(b) For purposes of this section, “large capacity magazine” shall~~
7 ~~have the same meaning as that set forth in paragraph (25) of~~
8 ~~subdivision (e) of Section 12020.~~

9 *(b) Commencing January 1, 2011, no large-capacity magazine*
10 *may be possessed, transported, or sold pursuant to this section*
11 *unless that magazine is registered. The dealer shall notify the*
12 *Department of Justice in a manner prescribed by the department*
13 *as to who the large-capacity magazine was sold or transferred to.*

14 *SEC. 5. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution for certain*
16 *costs that may be incurred by a local agency or school district*
17 *because, in that regard, this act creates a new crime or infraction,*
18 *eliminates a crime or infraction, or changes the penalty for a crime*
19 *or infraction, within the meaning of Section 17556 of the*
20 *Government Code, or changes the definition of a crime within the*
21 *meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 *However, if the Commission on State Mandates determines that*
24 *this act contains other costs mandated by the state, reimbursement*
25 *to local agencies and school districts for those costs shall be made*
26 *pursuant to Part 7 (commencing with Section 17500) of Division*
27 *4 of Title 2 of the Government Code.*

28 ~~SECTION 1. Section 8090 of the Penal Code is amended to~~
29 ~~read:~~

30 ~~8090. Implementation of this chapter pursuant to Section 8060~~
31 ~~is contingent upon the availability of funding. Funding for~~
32 ~~community-based punishment programs shall be administered by~~
33 ~~the board from funds appropriated by the Legislature. In addition~~
34 ~~to state funds appropriated in the annual Budget Act or other~~
35 ~~legislation, programs may be funded from a variety of sources,~~
36 ~~including, but not limited to, the following:~~

37 ~~(a) Federal funds.~~

38 ~~(b) Private or corporate grants, or both.~~

39 ~~(c) Service and administrative fees that may be charged to~~
40 ~~offenders who participate in community corrections programs,~~

1 ~~provided that no offender shall be denied entrance into a~~
2 ~~community-based punishment program solely for inability to pay~~
3 ~~fees.~~

4 ~~(d) Income derived from community development corporations~~
5 ~~established as part of community-based punishment programs of~~
6 ~~a county or collaboration of counties, including, but not limited~~
7 ~~to, revenue generated by businesses owned and operated by~~
8 ~~community-based punishment programs, or by offender work~~
9 ~~programs, or by both, after the cost of operating and administering~~
10 ~~the business or work program has been paid.~~

11 ~~(e) Other sources as may be identified as suitable for funding~~
12 ~~community corrections.~~

13 ~~It is the intent of the Legislature that community corrections~~
14 ~~reduce the number of offenders who would be incarcerated in the~~
15 ~~state prison in the absence of a community-based punishment~~
16 ~~approach.~~

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