

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 759

Introduced by Senator Nielsen

February 22, 2013

An act to amend Section 34005 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 759, as amended, Nielsen. Firearms: California State Military Museum and Resource Center.

Existing law provides that an officer having custody of any firearm that may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, may, upon the authority of the legislative body of the city, city and county, or county by which the officer is employed and the approval of the Adjutant General, deliver the firearm to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government, including the California State Military Museum and Resource Center, in lieu of destruction as otherwise required. Existing law also specifies how firearms donated to the California State Military Museum and Resource Center may be disposed of.

This bill would correct an incorrect reference to the California State Military Museum and Resource Center in those provisions. *The bill would authorize donation of firearms to specified branch museums in addition to the California State Military Museum and Resource Center, and would also authorize any state agency, county, municipality, or special purpose district to offer any excess military weapons or*

equipment, such as historical war equipment like artillery, tanks, or armored vehicles, to those museums.

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

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

- 1 SECTION 1. Section 34005 of the Penal Code is amended to
2 read:
- 3 34005. (a) (1) An officer having custody of any firearm that
4 may be useful to the California National Guard, the Coast Guard
5 Auxiliary, or to any military or naval agency of the federal or state
6 government, including, but not limited to, the California State
7 Military Museum and Resource Center, *located in Sacramento,*
8 *and at branch museums located at the California National Guard*
9 *facilities at Camp Roberts, Camp San Luis Obispo, and Los*
10 *Alamitos Armed Forces Reserve Center,* may, upon the authority
11 of the legislative body of the city, city and county, or county by
12 which the officer is employed and the approval of the Adjutant
13 General, deliver the firearm to the commanding officer of a unit
14 of the California National Guard, the Coast Guard Auxiliary, or
15 any other military agency of the state or federal government, in
16 lieu of destruction as required by any of the provisions listed in
17 Section 16580.
- 18 (2) *Any state agency, county, municipality, or special purpose*
19 *district may offer any excess military weapons or equipment, such*
20 *as historical war equipment like artillery, tanks, or armored*
21 *vehicles, to the California State Military Museum and Resource*
22 *Center or any branch museum described in paragraph (1).*
- 23 ~~(2)~~
- 24 (3) The officer delivering a firearm pursuant to this subdivision
25 shall take a receipt for it, which contains a complete description
26 of the firearm, and shall keep the receipt on file in his or her office
27 as a public record.
- 28 (b) Any law enforcement agency that has custody of any
29 firearms, or any parts of any firearms, which are subject to
30 destruction as required by any of the provisions listed in Section
31 16580, may, in lieu of destroying the weapons, retain and use any
32 of them as may be useful in carrying out the official duties of the

1 agency. Alternatively, upon approval of a court, the agency may
2 do either of the following:

3 (1) Release the weapons to any other law enforcement agency
4 for use in carrying out the official duties of that agency.

5 (2) Turn over to the criminalistics laboratory of the Department
6 of Justice or the criminalistics laboratory of a police department,
7 sheriff's office, or district attorney's office, any weapons that may
8 be useful in carrying out the official duties of the respective
9 agencies.

10 (c) (1) Any firearm, or part of any firearm, which, rather than
11 being destroyed, is used for official purposes pursuant to this
12 section, shall be destroyed by the agency using the weapon when
13 it is no longer needed by the agency for use in carrying out its
14 official duties.

15 (2) Firearms or weaponry donated to the California State
16 Military Museum and Resource Center may be disposed of
17 pursuant to Section 179 of the Military and Veterans Code.

18 (d) (1) Any law enforcement agency that has custody of any
19 firearms, or any parts of any firearms, which are subject to
20 destruction as required by any of the provisions listed in Section
21 16580, may, in lieu of destroying the firearms, obtain an order
22 from the superior court directing the release of the firearms to the
23 sheriff.

24 (2) The sheriff shall enter those weapons into the Automated
25 Firearms System (AFS), via the California Law Enforcement
26 Telecommunications System, with a complete description of each
27 weapon, including the make, type, category, caliber, and serial
28 number of the firearms, and the name of the academy receiving
29 the weapon entered into the AFS miscellaneous field.

30 (3) The sheriff shall then release the firearms to the basic
31 training academy certified by the Commission on Peace Officer
32 Standards and Training, so that the firearms may be used for
33 instructional purposes in the certified courses. All firearms released
34 to an academy shall be under the care, custody, and control of the
35 particular academy.

36 (4) Any firearm, or part of any firearm, which is not destroyed,
37 and is used for the purposes authorized by this section, shall be
38 returned to the law enforcement agency that had original custody
39 of the firearm when it is no longer needed by the basic training

1 academy, or when the basic training academy is no longer certified
2 by the commission.

3 (5) When those firearms are returned, the law enforcement
4 agency to which the firearms are returned, shall on the date of the
5 return, enter into the Automated Firearms System (AFS), via the
6 California Law Enforcement Telecommunications System, a
7 complete description of each weapon, including the make, type,
8 category, caliber, and serial number of the firearms, and the name
9 of the entity returning the firearm.

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