

**Introduced by Senator DeSaulnier**February 15, 2013

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An act to amend Sections 16520, 26835, and 27535 of, and to add Division 4.5 (commencing with Section 25250) to Title 4 of Part 6 of, the Penal Code, relating to firearms.

## LEGISLATIVE COUNSEL'S DIGEST

SB 299, as introduced, DeSaulnier. Firearms: lost or stolen: reports.

(1) Existing law requires each sheriff or police chief executive to submit descriptions of serialized property, or nonserialized property that has been uniquely inscribed, which has been reported stolen, lost, or found directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property. Existing law requires that information about a firearm entered into the automated system for firearms remain in the system until the reported firearm has been found. Existing law requires the Department of Justice to implement an electronic system to receive comprehensive tracing information from each local law enforcement agency and to forward the information to the National Tracing Center.

This bill would require every person, with exceptions, to report the theft or loss of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within 48 hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, and requires every person who has reported a firearm lost or stolen to notify the local law enforcement agency within 48 hours if the firearm is subsequently recovered. The bill would make a violation of these provisions an infraction punishable by a fine not to exceed \$100 for a first offense, an infraction punishable by a fine not to exceed \$1,000 for a 2nd offense,

and a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not to exceed \$1,000, or both that fine and imprisonment, for a 3rd or subsequent offense. The bill would make it a misdemeanor for any person to make a report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false.

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

The bill would require every sheriff or police chief to submit a description of each firearm that has been reported lost or stolen directly to the Department of Justice automated property system for firearms.

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

The bill would also require that persons licensed to sell firearms post a warning within the licensed premises in block letters stating the requirement that a lost or stolen firearm be reported to a local law enforcement agency, as specified.

(2) Existing law prohibits a person from making an application to purchase more than one handgun within any 30-day period. Existing law makes an exception for the replacement of a handgun when the person's handgun was lost or stolen and the person reported the firearm lost or stolen prior to the completion of the application to purchase.

This bill would instead make the exception for the replacement of a lost or stolen handgun applicable when the person has reported the handgun lost or stolen pursuant to the provisions of this bill.

(3) 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.

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 16520 of the Penal Code is amended to  
2 read:

3 16520. (a) As used in this part, “firearm” means ~~a~~ *any* device,  
4 designed to be used as a weapon, from which is expelled through  
5 a barrel, a projectile by the force of ~~an~~ *any* explosion or other form  
6 of combustion.

7 (b) As used in the following provisions, “firearm” includes the  
8 frame or receiver of the weapon:

9 (1) Section 16550.

10 (2) Section 16730.

11 (3) Section 16960.

12 (4) Section 16990.

13 (5) Section 17070.

14 (6) Section 17310.

15 (7) *Sections 25250 to 25275, inclusive*

16 ~~(7)~~

17 (8) Sections 26500 to 26588, inclusive.

18 ~~(8)~~

19 (9) Sections 26600 to 27140, inclusive.

20 ~~(9)~~

21 (10) Sections 27400 to 28000, inclusive.

22 ~~(10)~~

23 (11) Section 28100.

24 ~~(11)~~

25 (12) Sections 28400 to 28415, inclusive.

26 ~~(12)~~

27 (13) Sections 29010 to 29150, inclusive.

28 ~~(13)~~

29 (14) Sections 29610 to 29750, inclusive.

30 ~~(14)~~

31 (15) Sections 29800 to 29905, inclusive.

32 ~~(15)~~

33 (16) Sections 30150 to 30165, inclusive.

34 ~~(16)~~

35 (17) Section 31615.

36 ~~(17)~~

37 (18) Sections 31705 to 31830, inclusive.

38 ~~(18)~~

- 1 (19) Sections 34355 to 34370, inclusive.
- 2 ~~(19)~~
- 3 (20) Sections 8100, 8101, and 8103 of the Welfare and
- 4 Institutions Code.
- 5 (c) As used in the following provisions, “firearm” also includes
- 6 a *any* rocket, rocket propelled projectile launcher, or similar device
- 7 containing ~~an~~ *any* explosive or incendiary material, whether or not
- 8 the device is designed for emergency or distress signaling purposes:
- 9 (1) Section 16750.
- 10 (2) Subdivision (b) of Section 16840.
- 11 (3) Section 25400.
- 12 (4) Sections 25850 to 26025, inclusive.
- 13 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 14 (6) Sections 26035 to 26055, inclusive.
- 15 (d) As used in the following provisions, “firearm” does not
- 16 include an unloaded antique firearm:
- 17 (1) Subdivisions (a) and (c) of Section 16730.
- 18 (2) Section 16550.
- 19 (3) Section 16960.
- 20 (4) Section 17310.
- 21 (5) *Division 4.5 (commencing with Section 25250) of Title 4.*
- 22 ~~(5)~~
- 23 (6) Chapter 6 (commencing with Section 26350) of Division 5
- 24 of Title 4.
- 25 ~~(6)~~
- 26 (7) Chapter 7 (commencing with Section 26400) of Division 5
- 27 of Title 4.
- 28 ~~(7)~~
- 29 (8) Sections 26500 to 26588, inclusive.
- 30 ~~(8)~~
- 31 (9) Sections 26700 to 26915, inclusive.
- 32 ~~(9)~~
- 33 (10) Section 27510.
- 34 ~~(10)~~
- 35 (11) Section 27530.
- 36 ~~(11)~~
- 37 (12) Section 27540.
- 38 ~~(12)~~
- 39 (13) Section 27545.
- 40 ~~(13)~~

1 (14) Sections 27555 to 27570, inclusive.

2 ~~(14)~~

3 (15) Sections 29010 to 29150, inclusive.

4 (e) As used in Sections 34005 and 34010, “firearm” does not  
5 include a destructive device.

6 (f) As used in Sections 17280 and 24680, “firearm” has the  
7 same meaning as in Section 922 of Title 18 of the United States  
8 Code.

9 (g) As used in Sections 29010 to 29150, inclusive, “firearm”  
10 includes the unfinished frame or receiver of a weapon that can be  
11 readily converted to the functional condition of a finished frame  
12 or receiver.

13 SEC. 2. Division 4.5 (commencing with Section 25250) is  
14 added to Title 4 of Part 6 of the Penal Code, to read:

15

16 DIVISION 4.5. LOST OR STOLEN FIREARMS

17

18 25250. (a) Commencing January 1, 2014, every person shall  
19 report the theft or loss of a firearm he or she owns or possesses to  
20 a local law enforcement agency in the jurisdiction in which the  
21 theft or loss occurred within 48 hours of the time he or she knew  
22 or reasonably should have known that the firearm had been stolen  
23 or lost.

24 (b) Every person who has reported a firearm lost or stolen under  
25 subdivision (a) shall notify the local law enforcement agency in  
26 the jurisdiction in which the theft or loss occurred within 48 hours  
27 if the firearm is subsequently recovered by the person.

28 25255. Section 25250 shall not apply to the following:

29 (a) Any law enforcement agency or peace officer acting within  
30 the course and scope of his or her employment or official duties  
31 if he or she reports the loss or theft to his or her employing agency.

32 (b) Any United States Marshal or member of the Armed Forces  
33 of the United States or the National Guard, while engaged in his  
34 or her official duties.

35 (c) Any person who is licensed, pursuant to Chapter 44  
36 (commencing with Section 921) of Title 18 of the United States  
37 Code and the regulations issued pursuant thereto, and who reports  
38 the theft or loss in accordance with Section 923(g)(6) of Title 18  
39 of the United States Code, or the successor provision thereto, and  
40 applicable regulations issued thereto.

1 (d) Any person whose firearm was lost or stolen prior to January  
2 1, 2014.

3 25260. Pursuant to Section 11108, every sheriff or police chief  
4 shall submit a description of each firearm which has been reported  
5 lost or stolen directly into the Department of Justice automated  
6 property system for firearms.

7 25265. (a) Every person who violates Section 25250 is, for a  
8 first violation, guilty of an infraction punishable by a fine not to  
9 exceed one hundred dollars (\$100).

10 (b) Every person who violates Section 25250 is, for a second  
11 violation, guilty of an infraction, punishable by a fine not exceeding  
12 one thousand dollars (\$1,000).

13 (c) Every person who violates Section 25250 is, for a third or  
14 subsequent violation, guilty of a misdemeanor, punishable by  
15 imprisonment in a county jail not exceeding six months, or by a  
16 fine not exceeding one thousand dollars (\$1,000), or by both that  
17 fine and imprisonment.

18 25270. Every person reporting a lost or stolen firearm pursuant  
19 to Section 25250 shall report the make, model, and serial number  
20 of the firearm, if known by the person.

21 25275. Commencing January 1, 2014, no person shall report  
22 to a local law enforcement agency that a firearm has been lost or  
23 stolen, knowing the report to be false. A violation of this section  
24 is a misdemeanor.

25 SEC. 3. Section 26835 of the Penal Code is amended to read:

26 26835. A licensee shall post conspicuously within the licensed  
27 premises the following warnings in block letters not less than one  
28 inch in height:

29  
30 (a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY  
31 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
32 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND  
33 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES  
34 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A  
35 MISDEMEANOR OR A FELONY UNLESS YOU STORED  
36 THE FIREARM IN A LOCKED CONTAINER OR LOCKED  
37 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT  
38 FROM TEMPORARILY FUNCTIONING."

39 (b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER  
40 FIREARM CAPABLE OF BEING CONCEALED UPON THE

1 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY  
2 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE  
3 GAINS ACCESS TO THE FIREARM, AND CARRIES IT  
4 OFF-PREMISES, YOU MAY BE GUILTY OF A  
5 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN  
6 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH  
7 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY  
8 FUNCTIONING.”

9 (c) “IF YOU KEEP ANY FIREARM WITHIN ANY  
10 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
11 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO  
12 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A  
13 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE  
14 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP  
15 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU  
16 STORED THE FIREARM IN A LOCKED CONTAINER, OR  
17 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

18 (d) “DISCHARGING FIREARMS IN POORLY VENTILATED  
19 AREAS, CLEANING FIREARMS, OR HANDLING  
20 AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A  
21 SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS,  
22 REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL  
23 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES.  
24 WASH HANDS THOROUGHLY AFTER EXPOSURE.”

25 (e) “FEDERAL REGULATIONS PROVIDE THAT IF YOU  
26 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM  
27 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30  
28 DAYS AFTER YOU COMPLETE THE INITIAL  
29 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE  
30 TO GO THROUGH THE BACKGROUND CHECK PROCESS  
31 A SECOND TIME IN ORDER TO TAKE PHYSICAL  
32 POSSESSION OF THAT FIREARM.”

33 (f) “NO PERSON SHALL MAKE AN APPLICATION TO  
34 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR  
35 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON  
36 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO  
37 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS  
38 MADE AN APPLICATION TO PURCHASE MORE THAN ONE  
39 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF

1 BEING CONCEALED UPON THE PERSON WITHIN ANY  
2 30-DAY PERIOD.”

3 (g) “IF A FIREARM YOU OWN OR POSSESS IS LOST OR  
4 STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A  
5 LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS  
6 OR THEFT OCCURRED WITHIN 48 HOURS OF THE TIME  
7 YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT  
8 THE FIREARM HAD BEEN LOST OR STOLEN.”

9

10 SEC. 4. Section 27535 of the Penal Code is amended to read:

11 27535. (a) No person shall make an application to purchase  
12 more than one handgun within any 30-day period.

13 (b) Subdivision (a) shall not apply to any of the following:

14 (1) Any law enforcement agency.

15 (2) Any agency duly authorized to perform law enforcement  
16 duties.

17 (3) Any state or local correctional facility.

18 (4) Any private security company licensed to do business in  
19 California.

20 (5) Any person who is properly identified as a full-time paid  
21 peace officer, as defined in Chapter 4.5 (commencing with Section  
22 830) of Title 3 of Part 2, and who is authorized to, and does carry  
23 a firearm during the course and scope of employment as a peace  
24 officer.

25 (6) Any motion picture, television, or video production company  
26 or entertainment or theatrical company whose production by its  
27 nature involves the use of a firearm.

28 (7) Any person who may, pursuant to Article 2 (commencing  
29 with Section 27600), Article 3 (commencing with Section 27650),  
30 or Article 4 (commencing with Section 27700), claim an exemption  
31 from the waiting period set forth in Section 27540.

32 (8) Any transaction conducted through a licensed firearms dealer  
33 pursuant to Chapter 5 (commencing with Section 28050).

34 (9) Any person who is licensed as a collector pursuant to Chapter  
35 44 (commencing with Section 921) of Title 18 of the United States  
36 Code and the regulations issued pursuant thereto, and has a current  
37 certificate of eligibility issued by the Department of Justice  
38 pursuant to Article 1 (commencing with Section 26700) of Chapter  
39 2.



1 (10) The exchange of a handgun where the dealer purchased  
2 that firearm from the person seeking the exchange within the  
3 30-day period immediately preceding the date of exchange or  
4 replacement.

5 (11) The replacement of a handgun when the person's handgun  
6 was lost or stolen, and the person reported that firearm lost or  
7 stolen *pursuant to Section 25250* prior to the completion of the  
8 application to purchase ~~to any local law enforcement agency of~~  
9 ~~the city, county, or city and county in which the person resides~~ *the*  
10 *replacement handgun*.

11 (12) The return of any handgun to its owner.

12 (13) A community college that is certified by the Commission  
13 on Peace Officer Standards and Training to present the law  
14 enforcement academy basic course or other commission-certified  
15 law enforcement training.

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

25 However, if the Commission on State Mandates determines that  
26 this act contains other costs mandated by the state, reimbursement  
27 to local agencies and school districts for those costs shall be made  
28 pursuant to Part 7 (commencing with Section 17500) of Division  
29 4 of Title 2 of the Government Code.