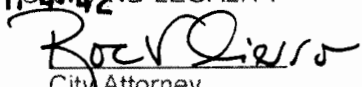


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY  
10 FEB 03 PM 4:42

  
City Attorney

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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ORDINANCE NO. 12996 C.M.S.

**AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 9.36, TO REQUIRE REPORTING TO THE OAKLAND POLICE DEPARTMENT THE THEFT OR LOSS OF A FIREARM WHEN THE OWNER KNEW OR SHOULD HAVE KNOWN THAT A FIREARM HAS BEEN LOST OR STOLEN**

WHEREAS, IN 2003 the City Council approved Ordinance No. 12529 C.M.S. establishing penalties for failing to report the loss or theft of a firearm in Oakland; and

WHEREAS, the original language utilized a restrictive standard that might prevent prosecution in cases where a firearm owner did not report the loss or theft of a weapon; and

WHEREAS, a court should be allowed to reasonably infer from the evidence presented when a firearm owner knew or should have known a firearm has been stolen or lost.

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

The Oakland Municipal Code, Chapter 9.32 is amended to read as follows (additions in ***bold italics***, deletions in ~~strike-out~~):

***9.36.131 - Theft or loss of firearms—Reporting of stolen and/or lost firearms required.***

- A. Any person owning a firearm or in possession of a firearm is required to report the theft or loss of such firearm to the Oakland Police Department when:

1. owner resides in Oakland, AND/OR
  2. the theft or loss of the firearm occurs in Oakland.
- B. A person subject to the reporting requirements in subsection A is required to report the theft or loss of a firearm within forty eight (48) hours of ~~knowing~~ **when he or she knew or reasonably should have known** that the firearm has ~~been~~ **was** stolen or lost.
- C. A person who has experienced the theft or loss of a firearm between August 1, 1992 and July 30, 2002 and who otherwise meets the reporting requirements in subsection A is required to report the loss or theft of such firearm to the Oakland Police Department within sixty (60) days of the effective date of the Amendment under which this new section was adopted.

**9.36.140 - Severability.**

This article shall be enforced to the full extent of the authority of the city. If any section, subsection, paragraph, sentence or word of this chapter is deemed to be invalid or beyond the authority of the city, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences, or words of this article, and the applications thereof; and to that end the section, subsections, paragraphs, sentences and words of this article shall be deemed severable.

*(Prior code § 2 11.10)*

**9.36.141 - Penalty—Misdemeanor.**

- A. Failure to report within forty-eight (48) hours the theft or loss of a firearm pursuant to this subsection B of Section 9.36.131, when the owner or person in possession knew or **reasonably** should have known of the theft or loss, shall be a misdemeanor subjecting the owner to prosecution.
- B. Failure to report firearms theft or loss within the timeframe set forth within subsection C of section 9.36.131 shall be a misdemeanor subjecting the owner to prosecution.

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 16 2010, 20    

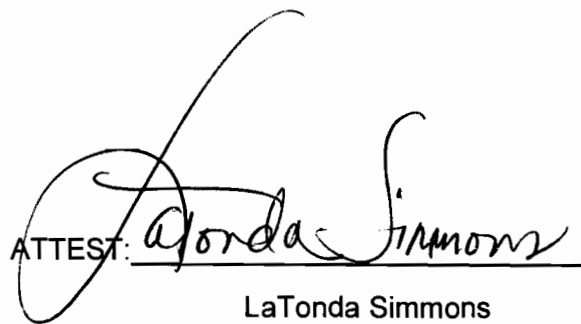
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER, *De La Fuente-8*

NOES- *0*

ABSENT- *0*

ABSTENTION- *0*

ATTEST: 

LaTonda Simmons

City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date: FEB 2 2010