

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1810

Introduced by Assembly Member Feuer

February 10, 2010

An act to amend ~~Section 594 of the Penal Code, relating to vandalism.~~ *Section 21628.2 of the Business and Professions Code, and to amend Sections 11106, 12001, 12021.3, 12071, 12072, 12073, 12076, 12077, 12077.5, 12078, and 12082 of the Penal Code, relating to firearms.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1810, as amended, Feuer. ~~Vandalism.~~ *Firearms.*

Existing law generally regulates the transfer of firearms and provides for retaining specified information regarding firearm transfers by the Department of Justice. Existing law establishes different requirements regarding reportable information regarding handguns versus firearms that are not handguns.

This bill would conform those provisions so that the transfers and information reporting and retention requirements for handguns and firearms other than handguns are the same.

Existing law, subject to exceptions, prohibits peace officers, Department of Justice employees, and the Attorney General from retaining or compiling certain information relating to transactions regarding firearms that are not handguns, as specified. Violation of these provisions is a misdemeanor.

This bill would provide that those provisions become inoperative on July 1, 2012, and thereafter would require compilation and retention of the information, as specified.

Existing law requires a personal handgun importer to report certain information relative to bringing a handgun into the state, as specified. Violation of these provisions is a misdemeanor.

This bill would, commencing July 1, 2012, recast “personal handgun importer” to be “personal firearm importer,” as defined, and would expand the reporting requirements to apply to the importation of firearms that are not handguns.

By expanding these provisions, the violation of which is a crime, this bill would impose a state-mandated local program.

Under existing law, the Department of Justice requires firearms dealers to keep a register or record of electronic or telephonic transfers of information pertaining to firearms transactions, as specified. Existing law exempts from these requirements certain transactions involving firearms that are not handguns.

This bill would provide that those exemptions become inoperative on July 1, 2012.

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 no reimbursement is required by this act for a specified reason.

~~Existing law, as amended by Proposition 21, approved by the voters in the March 7, 2000, general election, establishes various acts as constituting vandalism and provides in part, that if the amount of defacement, damage, or destruction is \$400 or more, but less than \$10,000, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than \$10,000, or by both that fine and imprisonment. Existing law allows the Legislature to amend these provisions by a statute passed by a $\frac{2}{3}$ vote of each house of the Legislature.~~

~~This bill would increase the maximum applicable fine to \$11,000.~~

Vote: $\frac{2}{3}$ -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 21628.2 of the Business and Professions
- 2 Code is amended to read:

1 21628.2. (a) For purposes of this section, the “department”
2 shall mean the Department of Justice.

3 (b) Every secondhand dealer described in Section 21626 shall,
4 in a format prescribed by the department, and on the day of the
5 transaction, electronically report to the department each firearm
6 purchased, taken in trade, taken in pawn, accepted for sale on
7 consignment, or accepted for auctioning. The secondhand dealer
8 shall retain a copy of the report submitted to the department and
9 make it available for inspection by the department, any peace
10 officer, or any local law enforcement employee who is authorized
11 by Section 12071 of the Penal Code to inspect a firearms
12 transaction record.

13 (c) The department may retain secondhand dealer reports to
14 determine whether a firearm taken in by a secondhand dealer has
15 been reported lost or stolen. If the department’s records indicate
16 that the firearm is lost or stolen, the department shall notify the
17 law enforcement agency that entered the information in the
18 department’s records and a law enforcement agency with
19 jurisdiction over the secondhand dealer’s business location about
20 the status of the firearm. The Dealers’ Record of Sale shall be
21 retained by the department pursuant to ~~paragraph (1) of subdivision~~
22 ~~(b) of~~ Section 11106 of the Penal Code.

23 (d) All information in the secondhand dealer report of each
24 firearm described in subdivision (a) shall be electronically provided
25 by the department to the secure mailbox of the local law
26 enforcement agency described in Section 21630 within one working
27 day of receipt by the department.

28 (e) This section shall become operative on July 1, 2010.

29 *SEC. 2. Section 11106 of the Penal Code is amended to read:*

30 11106. (a) In order to assist in the investigation of crime, the
31 prosecution of civil actions by city attorneys pursuant to paragraph
32 (3) of subdivision (c), the arrest and prosecution of criminals, and
33 the recovery of lost, stolen, or found property, the Attorney General
34 shall keep and properly file a complete record of all copies of
35 fingerprints, copies of licenses to carry firearms issued pursuant
36 to Section 12050, information reported to the Department of Justice
37 pursuant to Section 12053, dealers’ records of sales of firearms,
38 reports provided pursuant to Section 12072 or 12078, forms
39 provided pursuant to Section 12084, as that section read prior to
40 being repealed by the act that amended this section, reports

1 provided pursuant to Section 12071 that are not dealers' records
2 of sales of firearms, and reports of stolen, lost, found, pledged, or
3 pawned property in any city or county of this state, and shall, upon
4 proper application therefor, furnish this information to the officers
5 referred to in Section 11105.

6 (b) (1) Except as provided in subdivision (d), the Attorney
7 General shall not retain or compile any information from reports
8 filed pursuant to subdivision (a) of Section 12078 for firearms that
9 are not handguns, from forms submitted pursuant to Section 12084,
10 as that section read prior to being repealed by the act that amended
11 this section, for firearms that are not handguns, or from dealers'
12 records of sales for firearms that are not handguns. All copies of
13 the forms submitted, or any information received in electronic
14 form, pursuant to Section 12084, as that section read prior to being
15 repealed by the act that amended this section, for firearms that are
16 not handguns, or of the dealers' records of sales for firearms that
17 are not handguns shall be destroyed within five days of the
18 clearance by the Attorney General, unless the purchaser or
19 transferor is ineligible to take possession of the firearm. All copies
20 of the reports filed, or any information received in electronic form,
21 pursuant to subdivision (a) of Section 12078 for firearms that are
22 not handguns shall be destroyed within five days of the receipt by
23 the Attorney General, unless retention is necessary for use in a
24 criminal prosecution.

25 (2) A peace officer, the Attorney General, a Department of
26 Justice employee designated by the Attorney General, or any
27 authorized local law enforcement employee shall not retain or
28 compile any information from a firearms transaction record, as
29 defined in paragraph (5) of subdivision (c) of Section 12071, for
30 firearms that are not handguns unless retention or compilation is
31 necessary for use in a criminal prosecution or in a proceeding to
32 revoke a license issued pursuant to Section 12071.

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

34 (4) *This subdivision shall become inoperative on July 1, 2012.*

35 (c) (1) The Attorney General shall permanently keep and
36 properly file and maintain all information reported to the
37 Department of Justice pursuant to Sections 12071, 12072, 12078,
38 12082, and former Section 12084 or any other law, as to handguns,
39 *and commencing July 1, 2012, as to all firearms*, and maintain a
40 registry thereof.

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

2 (A) The name, address, identification of, place of birth (state
3 or country), complete telephone number, occupation, sex,
4 description, and all legal names and aliases ever used by the owner
5 or person being loaned the particular ~~handgun~~ *firearm* as listed on
6 the information provided to the department on the Dealers' Record
7 of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
8 in former Section 12084, or reports made to the department
9 pursuant to Section 12078 or any other law.

10 (B) The name and address of, and other information about, any
11 person (whether a dealer or a private party) from whom the owner
12 acquired or the person being loaned the particular ~~handgun~~ *firearm*
13 and when the firearm was acquired or loaned as listed on the
14 information provided to the department on the Dealers' Record of
15 Sale, the LEFT, or reports made to the department pursuant to
16 Section 12078 or any other law.

17 (C) Any waiting period exemption applicable to the transaction
18 which resulted in the owner of or the person being loaned the
19 particular ~~handgun~~ *firearm* acquiring or being loaned that firearm.

20 (D) The manufacturer's name if stamped on the firearm, model
21 name or number if stamped on the firearm, and, if applicable, the
22 serial number, other number (if more than one serial number is
23 stamped on the firearm), caliber, type of firearm, if the firearm is
24 new or used, barrel length, and color of the firearm, *or, if the*
25 *firearm is not a handgun and does not have a serial number or*
26 *any identification number or mark assigned to it, that shall be*
27 *noted.*

28 (3) Information in the registry referred to in this subdivision
29 shall, upon proper application therefor, be furnished to the officers
30 referred to in Section 11105, to a city attorney prosecuting a civil
31 action, solely for use in prosecuting that civil action and not for
32 any other purpose, or to the person listed in the registry as the
33 owner or person who is listed as being loaned the particular
34 ~~handgun~~ *firearm*.

35 (4) If any person is listed in the registry as the owner of a firearm
36 through a Dealers' Record of Sale prior to 1979, and the person
37 listed in the registry requests by letter that the Attorney General
38 store and keep the record electronically, as well as in the record's
39 existing photographic, photostatic, or nonerasable optically stored
40 form, the Attorney General shall do so within three working days

1 of receipt of the request. The Attorney General shall, in writing,
2 and as soon as practicable, notify the person requesting electronic
3 storage of the record that the request has been honored as required
4 by this paragraph.

5 (d) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
6 of subdivision (b) of Section 11105 may disseminate the name of
7 the subject of the record, the number of the firearms listed in the
8 record, and the description of any firearm, including the make,
9 model, and caliber, from the record relating to any firearm's sale,
10 transfer, registration, or license record, or any information reported
11 to the Department of Justice pursuant to Section 12021.3, 12053,
12 12071, 12072, 12077, 12078, 12082, or 12285, if the following
13 conditions are met:

14 (A) The subject of the record has been arraigned for a crime in
15 which the victim is a person described in subdivisions (a) to (f),
16 inclusive, of Section 6211 of the Family Code and is being
17 prosecuted or is serving a sentence for the crime, or the subject of
18 the record is the subject of an emergency protective order, a
19 temporary restraining order, or an order after hearing, which is in
20 effect and has been issued by a family court under the Domestic
21 Violence Protection Act set forth in Division 10 (commencing
22 with Section 6200) of the Family Code.

23 (B) The information is disseminated only to the victim of the
24 crime or to the person who has obtained the emergency protective
25 order, the temporary restraining order, or the order after hearing
26 issued by the family court.

27 (C) Whenever a law enforcement officer disseminates the
28 information authorized by this subdivision, that officer or another
29 officer assigned to the case shall immediately provide the victim
30 of the crime with a "Victims of Domestic Violence" card, as
31 specified in subparagraph (H) of paragraph (9) of subdivision (c)
32 of Section 13701.

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

37 *SEC. 3. Section 12001 of the Penal Code is amended to read:*
38 12001. (a) (1) As used in this title, the terms "pistol,"
39 "revolver," and "firearm capable of being concealed upon the
40 person" shall apply to and include any device designed to be used

1 as a weapon, from which is expelled a projectile by the force of
2 any explosion, or other form of combustion, and that has a barrel
3 less than 16 inches in length. These terms also include any device
4 that has a barrel 16 inches or more in length which is designed to
5 be interchanged with a barrel less than 16 inches in length.

6 (2) As used in this title, the term “handgun” means any “pistol,”
7 “revolver,” or “firearm capable of being concealed upon the
8 person.”

9 (b) As used in this title, “firearm” means any device, designed
10 to be used as a weapon, from which is expelled through a barrel,
11 a projectile by the force of any explosion or other form of
12 combustion.

13 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
14 12073, 12078, 12101, and 12801 of this code, and Sections 8100,
15 8101, and 8103 of the Welfare and Institutions Code, the term
16 “firearm” includes the frame or receiver of the weapon.

17 (d) For the purposes of Sections 12025 and 12031, the term
18 “firearm” also shall include any rocket, rocket propelled projectile
19 launcher, or similar device containing any explosive or incendiary
20 material whether or not the device is designed for emergency or
21 distress signaling purposes.

22 (e) For purposes of Sections 12070, 12071, and paragraph (8)
23 of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section
24 12072, the term “firearm” does not include an unloaded firearm
25 that is defined as an “antique firearm” in Section 921(a)(16) of
26 Title 18 of the United States Code.

27 (f) Nothing shall prevent a device defined as a “handgun,”
28 “pistol,” “revolver,” or “firearm capable of being concealed upon
29 the person” from also being found to be a short-barreled shotgun
30 or a short-barreled rifle, as defined in Section 12020.

31 (g) For purposes of Sections 12551 and 12552, the term “BB
32 device” means any instrument that expels a projectile, such as a
33 BB or a pellet, not exceeding 6mm caliber, through the force of
34 air pressure, gas pressure, or spring action, or any spot marker gun.

35 (h) As used in this title, “wholesaler” means any person who is
36 licensed as a dealer pursuant to Chapter 44 (commencing with
37 Section 921) of Title 18 of the United States Code and the
38 regulations issued pursuant thereto who sells, transfers, or assigns
39 firearms, or parts of firearms, to persons who are licensed as
40 manufacturers, importers, or gunsmiths pursuant to Chapter 44

(commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071 or 12072, “application to purchase” means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant’s fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, ~~a~~ *until July 1, 2012, any reference to the term “personal firearm importer” shall be deemed to mean “personal handgun importer” and, on and after July 1, 2012, any reference to the term “personal handgun importer” shall be deemed to mean “personal firearm importer.”* A “personal handgun importer,” *until July 1, 2012, and commencing July 1, 2012, a “personal firearm importer”* means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a ~~handgun~~ *firearm*.

(5) He or she acquired that ~~handgun~~ *firearm* outside of California.

(6) He or she moves into this state on or after January 1, 1998, *in the case of a handgun, or in the case of a firearm that is not a handgun, on or after July 1, 2012*, as a resident of this state.

(7) He or she intends to possess that ~~handgun~~ *firearm* within this state on or after January 1, 1998, *or in the case of a firearm that is not a handgun, he or she intends to possess that firearm within this state on or after July 1, 2012*.

(8) The ~~handgun~~ *firearm* was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that ~~handgun~~ *firearm* to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The ~~handgun~~ *firearm* is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The ~~handgun~~ *firearm* is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The ~~handgun~~ *firearm* is not a machinegun, as defined in Section 12200.

1 (13) The person is 18 years of age or older.

2 (o) For purposes of paragraph (6) of subdivision (n):

3 (1) Except as provided in paragraph (2), residency shall be
4 determined in the same manner as is the case for establishing
5 residency pursuant to Section 12505 of the Vehicle Code.

6 (2) In the case of members of the Armed Forces of the United
7 States, residency shall be deemed to be established when he or she
8 was discharged from active service in this state.

9 (p) As used in this code, “basic firearms safety certificate”
10 means a certificate issued by the Department of Justice pursuant
11 to Article 8 (commencing with Section 12800) of Chapter 6 of
12 Title 2 of Part 4, prior to January 1, 2003.

13 (q) As used in this code, “handgun safety certificate” means a
14 certificate issued by the Department of Justice pursuant to Article
15 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
16 4, as that article is operative on or after January 1, 2003.

17 (r) As used in this title, “gunsmith” means any person who is
18 licensed as a dealer pursuant to Chapter 44 (commencing with
19 Section 921) of Title 18 of the United States Code and the
20 regulations issued pursuant thereto, who is engaged primarily in
21 the business of repairing firearms, or making or fitting special
22 barrels, stocks, or trigger mechanisms to firearms, or the agent or
23 employee of that person.

24 (s) As used in this title, “consultant-evaluator” means a
25 consultant or evaluator who, in the course of his or her profession
26 is loaned firearms from a person licensed pursuant to Chapter 44
27 (commencing with Section 921) of Title 18 of the United States
28 Code and the regulations issued pursuant thereto, for his or her
29 research or evaluation, and has a current certificate of eligibility
30 issued to him or her pursuant to Section 12071.

31 *SEC. 4. Section 12021.3 of the Penal Code is amended to read:*

32 12021.3. (a) (1) Any person who claims title to any firearm
33 that is in the custody or control of a court or law enforcement
34 agency and who wishes to have the firearm returned to him or her
35 shall make application for a determination by the Department of
36 Justice as to whether he or she is eligible to possess a firearm. The
37 application shall include the following:

38 (A) The applicant’s name, date and place of birth, gender,
39 telephone number, and complete address.

1 (B) Whether the applicant is a United States citizen. If the
2 applicant is not a United States citizen, he or she shall also provide
3 his or her country of citizenship and his or her alien registration
4 or I-94 number.

5 (C) If the firearm is a handgun, *and commencing July 1, 2012,*
6 *for any firearm,* the firearm's make, model, caliber, barrel length,
7 handgun type, country of origin, and serial number, *provided,*
8 *however, that if the firearm is not a handgun and does not have a*
9 *serial number, identification number, or identification mark*
10 *assigned to it, a place on the application to note that fact.*

11 (D) For residents of California, the applicant's valid California
12 driver's license number or valid California identification card
13 number issued by the Department of Motor Vehicles. For
14 nonresidents of California, a copy of the applicant's military
15 identification with orders indicating that the individual is stationed
16 in California, or a copy of the applicant's valid driver's license
17 from the state of residence, or a copy of the applicant's state
18 identification card from the state of residence. Copies of the
19 documents provided by non-California residents shall be notarized.

20 (E) The name of the court or law enforcement agency holding
21 the firearm.

22 (F) The signature of the applicant and the date of signature.

23 (G) Any person furnishing a fictitious name or address or
24 knowingly furnishing any incorrect information or knowingly
25 omitting any information required to be provided for the
26 application, including any notarized information pursuant to
27 subparagraph (D) of paragraph (1) of subdivision (a) shall be guilty
28 of a misdemeanor.

29 (2) A person who owns a firearm that is in the custody of a court
30 or law enforcement agency and who does not wish to obtain
31 possession of the firearm, and the firearm is an otherwise legal
32 firearm, and the person otherwise has right to title of the firearm,
33 shall be entitled to sell or transfer title of the firearm to a licensed
34 dealer as defined in Section 12071.

35 (3) Any person furnishing a fictitious name or address, or
36 knowingly furnishing any incorrect information or knowingly
37 omitting any information required to be provided for the
38 application, including any notarized information pursuant to
39 subparagraph (D) of paragraph (1) of subdivision (a) is punishable
40 as a misdemeanor.

(b) No law enforcement agency or court that has taken custody of any firearm may return the firearm to any individual unless the following requirements are satisfied:

(1) That individual presents to the agency or court notification of a determination by the department pursuant to subdivision (e) that the person is eligible to possess firearms.

(2) If the agency or court has direct access to the Automated Firearms System, the agency or court has verified that the firearm is not listed as stolen pursuant to Section 11108, and that the firearm has been recorded in the Automated Firearms System in the name of the individual who seeks its return.

(3) If the firearm has been reported lost or stolen pursuant to Section 11108, a law enforcement agency shall notify the owner or person entitled to possession pursuant to Section 11108.5. However, that person shall provide proof of eligibility to possess a firearm pursuant to subdivision (e). Nothing in this subdivision shall prevent the local law enforcement agency from charging the rightful owner or person entitled to possession of the firearm the fees described in subdivision (j). However, individuals who are applying for a background check to retrieve a firearm that comes into the custody or control of the court or law enforcement agency pursuant to subdivision (a) shall be exempt from the fees in subdivision (c) provided that the court or agency determines the firearm was reported stolen to a law enforcement agency prior to the date the firearm came into custody or control of the court or law enforcement agency or within five business days of the firearm being stolen from its owner. The court or agency shall notify the Department of Justice of this fee exemption in a manner prescribed by the department.

(c) The Department of Justice shall establish a fee of twenty dollars (\$20) per request for return of a firearm, plus a three-dollar (\$3) charge for each additional ~~handgun~~ *firearm* being processed as part of the request to return a firearm, to cover its costs for processing firearm clearance determinations submitted pursuant to this section. The fees shall be deposited into the Dealers' Record of Sale Special Account. The department may increase the fee by using the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations to determine an annual rate of increase. Any fee increase shall be rounded to the nearest dollar.

1 (d) When the Department of Justice receives a completed
2 application pursuant to subdivision (a) accompanied with the fee
3 required pursuant to subdivision (c), it shall conduct an eligibility
4 check of the applicant to determine whether the applicant is eligible
5 to possess firearms.

6 (e) (1) If the department determines that the applicant is eligible
7 to possess the firearm, the department shall provide the applicant
8 with written notification that includes the following:

9 (A) The identity of the applicant.

10 (B) A statement that the applicant is eligible to possess a firearm.

11 (C) ~~If the firearm is a handgun, a~~ A description of the ~~handgun~~
12 *firearm* by make, model, and serial number, *provided, however,*
13 *that if the firearm is not a handgun and does not have a serial*
14 *number, identification number, or identification mark assigned to*
15 *it, a place on the application to note that fact.*

16 (2) If the firearm is a handgun, *and, commencing July 1, 2012,*
17 *for any firearm,* the department shall enter a record of the ~~handgun~~
18 *firearm* into the Automated Firearms System, *provided, however,*
19 *that if the firearm is not a handgun and does not have a serial*
20 *number, identification number, or identification mark assigned to*
21 *it, the department shall note that fact.*

22 (3) The department shall have 30 days from the date of receipt
23 to complete the background check unless delayed by circumstances
24 beyond the control of the department. The applicant may contact
25 the department to inquire about the reason for the delay.

26 (f) If the department denies the application, and the firearm is
27 an otherwise legal firearm, the department shall notify the applicant
28 of the denial and provide a form for the applicant to use to sell or
29 transfer the firearm to a licensed dealer as defined in Section 12071.
30 The applicant may contact the department to inquire about the
31 reason for the denial.

32 (g) Notwithstanding any other provision of law, no law
33 enforcement agency or court shall be required to retain a firearm
34 for more than 180 days after the owner of the firearm has been
35 notified by the court or law enforcement agency that the firearm
36 has been made available for return. An unclaimed firearm may be
37 disposed of after the 180-day period has expired.

38 (h) Notwithstanding Section 11106, the department may retain
39 personal information about an applicant in connection with a claim
40 for a firearm that is not a handgun to allow for law enforcement

1 confirmation of compliance with this section. The information
2 retained may include personal identifying information regarding
3 the individual applying for the clearance, but may not include
4 information that identifies any particular firearm that is not a
5 handgun. *This subdivision shall become inoperative on July 1,*
6 *2012.*

7 (i) (1) If a law enforcement agency determines that the applicant
8 is the legal owner of any firearm deposited with the law
9 enforcement agency and is prohibited from possessing any firearm
10 and the firearm is an otherwise legal firearm, the applicant shall
11 be entitled to sell or transfer the firearm to a licensed dealer as
12 defined in Section 12071.

13 (2) If the firearm has been lost or stolen, the firearm shall be
14 restored to the lawful owner pursuant to Section 11108.5 upon his
15 or her identification of the firearm and proof of ownership, and
16 proof of eligibility to possess a firearm pursuant to subdivision
17 (e). Nothing in this subdivision shall prevent the local law
18 enforcement agency from charging the rightful owner of the firearm
19 the fees described in subdivision (j).

20 (3) Subdivision (a) of Section 12070 shall not apply to
21 deliveries, transfers, or returns of firearms made by a court or a
22 law enforcement agency pursuant to this section.

23 (4) Subdivision (d) of Section 12072 shall not apply to
24 deliveries, transfers, or returns of firearms made pursuant to this
25 section.

26 (j) (1) A city, county, or city and county, or a state agency may
27 adopt a regulation, ordinance, or resolution imposing a charge
28 equal to its administrative costs relating to the seizure, impounding,
29 storage, or release of firearms. The fees shall not exceed the actual
30 costs incurred for the expenses directly related to taking possession
31 of a firearm, storing the firearm, and surrendering possession of
32 the firearm to a licensed firearms dealer or to the owner. Those
33 administrative costs may be waived by the local or state agency
34 upon verifiable proof that the firearm was reported stolen at the
35 time the firearm came into the custody or control of the law
36 enforcement agency.

37 (2) The following apply to any charges imposed for
38 administrative costs pursuant to this subdivision:

39 (A) The charges shall only be imposed on the person claiming
40 title to the firearms.

1 (B) Any charges shall be collected by the local or state authority
2 only from the person claiming title to the firearm.

3 (C) The charges shall be in addition to any other charges
4 authorized or imposed pursuant to this code.

5 (D) No charge may be imposed for any hearing or appeal
6 relating to the removal, impound, storage, or release of a firearm
7 unless that hearing or appeal was requested in writing by the legal
8 owner of the firearm. In addition, the charge may be imposed only
9 upon the person requesting that hearing or appeal.

10 (3) No costs for any hearing or appeal related to the release of
11 a firearm shall be charged to the legal owner who redeems the
12 firearm unless the legal owner voluntarily requests the post storage
13 hearing or appeal. No city, county, city and county, or state agency
14 shall require a legal owner to request a poststorage hearing as a
15 requirement for release of the firearm to the legal owner.

16 (k) In a proceeding for the return of a firearm seized and not
17 returned pursuant to this section, where the defendant or
18 cross-defendant is a law enforcement agency, the court shall award
19 reasonable attorney's fees to the prevailing party.

20 *SEC. 5. Section 12071 of the Penal Code is amended to read:*

21 12071. (a) (1) As used in this chapter, the term "licensee,"
22 "person licensed pursuant to Section 12071," or "dealer" means a
23 person who has all of the following:

24 (A) A valid federal firearms license.

25 (B) Any regulatory or business license, or licenses, required by
26 local government.

27 (C) A valid seller's permit issued by the State Board of
28 Equalization.

29 (D) A certificate of eligibility issued by the Department of
30 Justice pursuant to paragraph (4).

31 (E) A license issued in the format prescribed by paragraph (6).

32 (F) Is among those recorded in the centralized list specified in
33 subdivision (e).

34 (2) The duly constituted licensing authority of a city, county,
35 or a city and county shall accept applications for, and may grant
36 licenses permitting, licensees to sell firearms at retail within the
37 city, county, or city and county. The duly constituted licensing
38 authority shall inform applicants who are denied licenses of the
39 reasons for the denial in writing.

1 (3) No license shall be granted to any applicant who fails to
2 provide a copy of his or her valid federal firearms license, valid
3 seller's permit issued by the State Board of Equalization, and the
4 certificate of eligibility described in paragraph (4).

5 (4) A person may request a certificate of eligibility from the
6 Department of Justice. The Department of Justice shall examine
7 its records and records available to the department in the National
8 Instant Criminal Background Check System in order to determine
9 if the applicant is prohibited by state or federal law from
10 possessing, receiving, owning, or purchasing a firearm and issue
11 a certificate to an applicant if the department's records indicate
12 that the applicant is not a person who is prohibited by state or
13 federal law from possessing firearms.

14 (5) The department shall adopt regulations to administer the
15 certificate of eligibility program and shall recover the full costs of
16 administering the program by imposing fees assessed to applicants
17 who apply for those certificates.

18 (6) A license granted by the duly constituted licensing authority
19 of any city, county, or city and county, shall be valid for not more
20 than one year from the date of issuance and shall be in one of the
21 following forms:

22 (A) In the form prescribed by the Attorney General.

23 (B) A regulatory or business license that states on its face "Valid
24 for Retail Sales of Firearms" and is endorsed by the signature of
25 the issuing authority.

26 (C) A letter from the duly constituted licensing authority having
27 primary jurisdiction for the applicant's intended business location
28 stating that the jurisdiction does not require any form of regulatory
29 or business license or does not otherwise restrict or regulate the
30 sale of firearms.

31 (7) Local licensing authorities may assess fees to recover their
32 full costs of processing applications for licenses.

33 (b) A license is subject to forfeiture for a breach of any of the
34 following prohibitions and requirements:

35 (1) (A) Except as provided in subparagraphs (B) and (C), the
36 business shall be conducted only in the buildings designated in the
37 license.

38 (B) A person licensed pursuant to subdivision (a) may take
39 possession of firearms and commence preparation of registers for
40 the sale, delivery, or transfer of firearms at gun shows or events,

1 as defined in Section 478.100 of Title 27 of the Code of Federal
2 Regulations, or its successor, if the gun show or event is not
3 conducted from any motorized or towed vehicle. A person
4 conducting business pursuant to this subparagraph shall be entitled
5 to conduct business as authorized herein at any gun show or event
6 in the state without regard to the jurisdiction within this state that
7 issued the license pursuant to subdivision (a), provided the person
8 complies with (i) all applicable laws, including, but not limited to,
9 the waiting period specified in subparagraph (A) of paragraph (3),
10 and (ii) all applicable local laws, regulations, and fees, if any.

11 A person conducting business pursuant to this subparagraph
12 shall publicly display his or her license issued pursuant to
13 subdivision (a), or a facsimile thereof, at any gun show or event,
14 as specified in this subparagraph.

15 (C) A person licensed pursuant to subdivision (a) may engage
16 in the sale and transfer of firearms other than ~~pistols, revolvers, or~~
17 ~~other firearms capable of being concealed upon the person~~
18 *handguns*, at events specified in subdivision (g) of Section 12078,
19 subject to the prohibitions and restrictions contained in that
20 subdivision.

21 A person licensed pursuant to subdivision (a) also may accept
22 delivery of firearms other than ~~pistols, revolvers, or other firearms~~
23 ~~capable of being concealed upon the person~~ *handguns*, outside the
24 building designated in the license, provided the firearm is being
25 donated for the purpose of sale or transfer at an auction or similar
26 event specified in subdivision (g) of Section 12078.

27 (D) The firearm may be delivered to the purchaser, transferee,
28 or person being loaned the firearm at one of the following places:

- 29 (i) The building designated in the license.
30 (ii) The places specified in subparagraph (B) or (C).
31 (iii) The place of residence of, the fixed place of business of,
32 or on private property owned or lawfully possessed by, the
33 purchaser, transferee, or person being loaned the firearm.

34 (2) The license or a copy thereof, certified by the issuing
35 authority, shall be displayed on the premises where it can easily
36 be seen.

37 (3) No firearm shall be delivered:

38 (A) Within 10 days of the application to purchase, or, after
39 notice by the department pursuant to subdivision (d) of Section
40 12076, within 10 days of the submission to the department of any

1 correction to the application, or within 10 days of the submission
2 to the department of any fee required pursuant to subdivision (e)
3 of Section 12076, whichever is later.

4 (B) Unless unloaded and securely wrapped or unloaded and in
5 a locked container.

6 (C) Unless the purchaser, transferee, or person being loaned the
7 firearm presents clear evidence of his or her identity and age to
8 the dealer.

9 (D) Whenever the dealer is notified by the Department of Justice
10 that the person is prohibited by state or federal law from processing,
11 owning, purchasing, or receiving a firearm. The dealer shall make
12 available to the person in the prohibited class a prohibited notice
13 and transfer form, provided by the department, stating that the
14 person is prohibited from owning or possessing a firearm, and that
15 the person may obtain from the department the reason for the
16 prohibition.

17 ~~(4) No pistol, revolver, or other firearm or imitation thereof~~
18 ~~capable of being concealed upon the person handgun or imitation~~
19 ~~thereof, or placard advertising the sale or other transfer thereof,~~
20 shall be displayed in any part of the premises where it can readily
21 be seen from the outside.

22 (5) The licensee shall agree to and shall act properly and
23 promptly in processing firearms transactions pursuant to Section
24 12082.

25 (6) The licensee shall comply with Sections 12073, 12076, and
26 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
27 (f) of Section 12072, and subdivision (a) of Section 12316.

28 (7) The licensee shall post conspicuously within the licensed
29 premises the following warnings in block letters not less than one
30 inch in height:

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

1 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
2 FIREARM CAPABLE OF BEING CONCEALED UPON THE
3 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
4 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
5 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
6 OFF-PREMISES, YOU MAY BE GUILTY OF A
7 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
8 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
9 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
10 FUNCTIONING."

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

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

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

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

1 MADE AN APPLICATION TO PURCHASE MORE THAN ONE
2 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF
3 BEING CONCEALED UPON THE PERSON WITHIN ANY
4 30-DAY PERIOD.”

5 (8) (A) Commencing April 1, 1994, and until January 1, 2003,
6 no pistol, revolver, or other firearm capable of being concealed
7 upon the person shall be delivered unless the purchaser, transferee,
8 or person being loaned the firearm presents to the dealer a basic
9 firearms safety certificate.

10 (B) ~~Commencing January 1, 2003, no~~ No dealer may deliver a
11 handgun unless the person receiving the handgun presents to the
12 dealer a valid handgun safety certificate. The firearms dealer shall
13 retain a photocopy of the handgun safety certificate as proof of
14 compliance with this requirement.

15 (C) ~~Commencing January 1, 2003, no~~ No handgun may be
16 delivered unless the purchaser, transferee, or person being loaned
17 the firearm presents documentation indicating that he or she is a
18 California resident. Satisfactory documentation shall include a
19 utility bill from within the last three months, a residential lease, a
20 property deed, or military permanent duty station orders indicating
21 assignment within this state, or other evidence of residency as
22 permitted by the Department of Justice. The firearms dealer shall
23 retain a photocopy of the documentation as proof of compliance
24 with this requirement.

25 (D) ~~Commencing January 1, 2003, except~~ Except as authorized
26 by the department, no firearms dealer may deliver a handgun unless
27 the recipient performs a safe handling demonstration with that
28 handgun. The demonstration shall commence with the handgun
29 unloaded and locked with the firearm safety device with which it
30 is required to be delivered, if applicable. While maintaining muzzle
31 awareness, that is, the firearm is pointed in a safe direction,
32 preferably down at the ground, and trigger discipline, that is, the
33 trigger finger is outside of the trigger guard and along side of the
34 handgun frame, at all times, the handgun recipient shall correctly
35 and safely perform the following:

36 (i) If the handgun is a semiautomatic pistol:

37 (I) Remove the magazine.

38 (II) Lock the slide back. If the model of firearm does not allow
39 the slide to be locked back, pull the slide back, visually and
40 physically check the chamber to ensure that it is clear.

1 (III) Visually and physically inspect the chamber, to ensure that
2 the handgun is unloaded.

3 (IV) Remove the firearm safety device, if applicable. If the
4 firearm safety device prevents any of the previous steps, remove
5 the firearm safety device during the appropriate step.

6 (V) Load one bright orange, red, or other readily identifiable
7 dummy round into the magazine. If no readily identifiable dummy
8 round is available, an empty cartridge casing with an empty primer
9 pocket may be used.

10 (VI) Insert the magazine into the magazine well of the firearm.

11 (VII) Manipulate the slide release or pull back and release the
12 slide.

13 (VIII) Remove the magazine.

14 (IX) Visually inspect the chamber to reveal that a round can be
15 chambered with the magazine removed.

16 (X) Lock the slide back to eject the bright orange, red, or other
17 readily identifiable dummy round. If the handgun is of a model
18 that does not allow the slide to be locked back, pull the slide back
19 and physically check the chamber to ensure that the chamber is
20 clear. If no readily identifiable dummy round is available, an empty
21 cartridge casing with an empty primer pocket may be used.

22 (XI) Apply the safety, if applicable.

23 (XII) Apply the firearm safety device, if applicable. This
24 requirement shall not apply to an Olympic competition pistol if
25 no firearms safety device, other than a cable lock that the
26 department has determined would damage the barrel of the pistol,
27 has been approved for the pistol, and the pistol is either listed in
28 paragraph (2) of subdivision (h) of Section 12132 or is subject to
29 paragraph (3) of subdivision (h) of Section 12132.

30 (ii) If the handgun is a double-action revolver:

31 (I) Open the cylinder.

32 (II) Visually and physically inspect each chamber, to ensure
33 that the revolver is unloaded.

34 (III) Remove the firearm safety device. If the firearm safety
35 device prevents any of the previous steps, remove the firearm
36 safety device during the appropriate step.

37 (IV) While maintaining muzzle awareness and trigger discipline,
38 load one bright orange, red, or other readily identifiable dummy
39 round into a chamber of the cylinder and rotate the cylinder so that
40 the round is in the next-to-fire position. If no readily identifiable

1 dummy round is available, an empty cartridge casing with an empty
2 primer pocket may be used.

3 (V) Close the cylinder.

4 (VI) Open the cylinder and eject the round.

5 (VII) Visually and physically inspect each chamber to ensure
6 that the revolver is unloaded.

7 (VIII) Apply the firearm safety device, if applicable. This
8 requirement shall not apply to an Olympic competition pistol if
9 no firearms safety device, other than a cable lock that the
10 department has determined would damage the barrel of the pistol,
11 has been approved for the pistol, and the pistol is either listed in
12 paragraph (2) of subdivision (h) of Section 12132 or is subject to
13 paragraph (3) of subdivision (h) of Section 12132.

14 (iii) If the handgun is a single-action revolver:

15 (I) Open the loading gate.

16 (II) Visually and physically inspect each chamber, to ensure
17 that the revolver is unloaded.

18 (III) Remove the firearm safety device required to be sold with
19 the handgun. If the firearm safety device prevents any of the
20 previous steps, remove the firearm safety device during the
21 appropriate step.

22 (IV) Load one bright orange, red, or other readily identifiable
23 dummy round into a chamber of the cylinder, close the loading
24 gate and rotate the cylinder so that the round is in the next-to-fire
25 position. If no readily identifiable dummy round is available, an
26 empty cartridge casing with an empty primer pocket may be used.

27 (V) Open the loading gate and unload the revolver.

28 (VI) Visually and physically inspect each chamber to ensure
29 that the revolver is unloaded.

30 (VII) Apply the firearm safety device, if applicable. This
31 requirement shall not apply to an Olympic competition pistol if
32 no firearms safety device, other than a cable lock that the
33 department has determined would damage the barrel of the pistol,
34 has been approved for the pistol, and the pistol is either listed in
35 paragraph (2) of subdivision (h) of Section 12132 or is subject to
36 paragraph (3) of subdivision (h) of Section 12132.

37 (E) The recipient shall receive instruction regarding how to
38 render that handgun safe in the event of a jam.

39 (F) The firearms dealer shall sign and date an affidavit stating
40 that the requirements of subparagraph (D) have been met. The

1 firearms dealer shall additionally obtain the signature of the
2 handgun purchaser on the same affidavit. The firearms dealer shall
3 retain the original affidavit as proof of compliance with this
4 requirement.

5 (G) The recipient shall perform the safe handling demonstration
6 for a department-certified instructor.

7 (H) No demonstration shall be required if the dealer is returning
8 the handgun to the owner of the handgun.

9 (I) Department-certified instructors who may administer the
10 safe handling demonstration shall meet the requirements set forth
11 in subdivision (j) of Section 12804.

12 (J) The persons who are exempt from the requirements of
13 subdivision (b) of Section 12801, pursuant to Section 12807, are
14 also exempt from performing the safe handling demonstration.

15 (9) ~~Commencing July 1, 1992, the~~ The licensee shall offer to
16 provide the purchaser or transferee of a firearm, or person being
17 loaned a firearm, with a copy of the pamphlet described in Section
18 12080 and may add the cost of the pamphlet, if any, to the sales
19 price of the firearm.

20 (10) The licensee shall not commit an act of collusion as defined
21 in Section 12072.

22 (11) The licensee shall post conspicuously within the licensed
23 premises a detailed list of each of the following:

24 (A) All charges required by governmental agencies for
25 processing firearm transfers required by Sections 12076, 12082,
26 and 12806.

27 (B) All fees that the licensee charges pursuant to Sections 12082
28 and 12806.

29 (12) The licensee shall not misstate the amount of fees charged
30 by a governmental agency pursuant to Sections 12076, 12082, and
31 12806.

32 (13) Except as provided in subparagraphs (B) and (C) of
33 paragraph (1) of subdivision (b), all firearms that are in the
34 inventory of the licensee shall be kept within the licensed location.
35 The licensee shall report the loss or theft of any firearm that is
36 merchandise of the licensee, any firearm that the licensee takes
37 possession of pursuant to Section 12082, or any firearm kept at
38 the licensee's place of business within 48 hours of discovery to
39 the appropriate law enforcement agency in the city, county, or city
40 and county where the licensee's business premises are located.

(14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a ~~pistol, revolver, or other firearm capable of being concealed upon the person~~ handgun, and commencing July 1, 2012, of any firearm.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities

1 pursuant to Chapter 44 (commencing with Section 921) of Title
2 18 of the United States Code and any regulations issued pursuant
3 thereto.

4 (iv) The dealer acquired the firearm from a person who resides
5 outside this state who is licensed pursuant to Chapter 44
6 (commencing with Section 921) of Title 18 of the United States
7 Code and any regulations issued pursuant thereto.

8 ~~(v) Until July 1, 2010, the dealer is also licensed as a secondhand~~
9 ~~dealer pursuant to Article 4 (commencing with Section 21625) of~~
10 ~~Chapter 9 of Division 8 of the Business and Professions Code,~~
11 ~~acquires a handgun, and reports its acquisition pursuant to Section~~
12 ~~21628 of the Business and Professions Code.~~

13 ~~(vi) Commencing July 1, 2010, the~~

14 (v) The dealer is also licensed as a secondhand dealer pursuant
15 to Article 4 (commencing with Section 21625) of Chapter 9 of
16 Division 8 of the Business and Professions Code, acquires a
17 handgun, and reports its acquisition pursuant to Section 21628.2
18 of the Business and Professions Code.

19 (19) The licensee shall forward in a format prescribed by the
20 Department of Justice, information as required by the department
21 on any firearm that is not delivered within the time period set forth
22 in Section 478.102 (c) of Title 27 of the Code of Federal
23 Regulations.

24 (20) (A) Firearms dealers may require any agent who handles,
25 sells, or delivers firearms to obtain and provide to the dealer a
26 certificate of eligibility from the department pursuant to paragraph
27 (4) of subdivision (a). The agent or employee shall provide on the
28 application, the name and California firearms dealer number of
29 the firearms dealer with whom he or she is employed.

30 (B) The department shall notify the firearms dealer in the event
31 that the agent or employee who has a certificate of eligibility is or
32 becomes prohibited from possessing firearms.

33 (C) If the local jurisdiction requires a background check of the
34 agents or employees of the firearms dealer, the agent or employee
35 shall obtain a certificate of eligibility pursuant to subparagraph
36 (A).

37 (D) Nothing in this paragraph shall be construed to preclude a
38 local jurisdiction from conducting an additional background check
39 pursuant to Section 11105 or prohibiting employment based on
40 criminal history that does not appear as part of obtaining a

1 certificate of eligibility, provided however, that the local
2 jurisdiction may not charge a fee for the additional criminal history
3 check.

4 (E) The licensee shall prohibit any agent who the licensee knows
5 or reasonably should know is within a class of persons prohibited
6 from possessing firearms pursuant to Section 12021 or 12021.1
7 of this code, or Section 8100 or 8103 of the Welfare and
8 Institutions Code, from coming into contact with any firearm that
9 is not secured and from accessing any key, combination, code, or
10 other means to open any of the locking devices described in clause
11 (ii) of subparagraph (G) of this paragraph.

12 (F) Nothing in this paragraph shall be construed as preventing
13 a local government from enacting an ordinance imposing additional
14 conditions on licensees with regard to agents.

15 (G) For purposes of this section, the following definitions shall
16 apply:

17 (i) An “agent” is an employee of the licensee.

18 (ii) “Secured” means a firearm that is made inoperable in one
19 or more of the following ways:

20 (I) The firearm is inoperable because it is secured by a firearms
21 safety device listed on the department’s roster of approved firearms
22 safety devices pursuant to subdivision (d) of Section 12088 of this
23 chapter.

24 (II) The firearm is stored in a locked gun safe or long-gun safe
25 which meets the standards for department-approved gun safes set
26 forth in Section 12088.2.

27 (III) The firearm is stored in a distinct locked room or area in
28 the building that is used to store firearms that can only be unlocked
29 by a key, a combination, or similar means.

30 (IV) The firearm is secured with a hardened steel rod or cable
31 that is at least one-eighth of an inch in diameter through the trigger
32 guard of the firearm. The steel rod or cable shall be secured with
33 a hardened steel lock that has a shackle. The lock and shackle shall
34 be protected or shielded from the use of a boltcutter and the rod
35 or cable shall be anchored in a manner that prevents the removal
36 of the firearm from the premises.

37 (c) (1) As used in this article, “clear evidence of his or her
38 identity and age” means either of the following:

39 (A) A valid California driver’s license.

1 (B) A valid California identification card issued by the
2 Department of Motor Vehicles.

3 (2) As used in this section, a “secure facility” means a building
4 that meets all of the following specifications:

5 (A) All perimeter doorways shall meet one of the following:

6 (i) A windowless steel security door equipped with both a dead
7 bolt and a doorknob lock.

8 (ii) A windowed metal door that is equipped with both a dead
9 bolt and a doorknob lock. If the window has an opening of five
10 inches or more measured in any direction, the window shall be
11 covered with steel bars of at least ½-inch diameter or metal grating
12 of at least 9 gauge affixed to the exterior or interior of the door.

13 (iii) A metal grate that is padlocked and affixed to the licensee’s
14 premises independent of the door and doorframe.

15 (B) All windows are covered with steel bars.

16 (C) Heating, ventilating, air-conditioning, and service openings
17 are secured with steel bars, metal grating, or an alarm system.

18 (D) Any metal grates have spaces no larger than six inches wide
19 measured in any direction.

20 (E) Any metal screens have spaces no larger than three inches
21 wide measured in any direction.

22 (F) All steel bars shall be no further than six inches apart.

23 (3) As used in this section, “licensed premises,” “licensed place
24 of business,” “licensee’s place of business,” or “licensee’s business
25 premises” means the building designated in the license.

26 (4) For purposes of paragraph (17) of subdivision (b):

27 (A) A “firearms transaction record” is a record containing the
28 same information referred to in subdivision (a) of Section 478.124,
29 Section 478.124a, and subdivision (e) of Section 478.125 of Title
30 27 of the Code of Federal Regulations.

31 (B) A licensee shall be in compliance with the provisions of
32 paragraph (17) of subdivision (b) if he or she maintains and makes
33 available for inspection during business hours to any peace officer,
34 authorized local law enforcement employee, or Department of
35 Justice employee designated by the Attorney General, upon the
36 presentation of proper identification, the bound book containing
37 the same information referred to in Section 478.124a and
38 subdivision (e) of Section 478.125 of Title 27 of the Code of
39 Federal Regulations and the records referred to in subdivision (a)
40 of Section 478.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) (1) Except as otherwise provided in this paragraph, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located.

(2) The department shall remove from the centralized list any person whose federal firearms license has expired or has been revoked.

(3) Information compiled from the list shall be made available, upon request, for the following purposes only:

(A) For law enforcement purposes.

(B) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(C) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

(4) Information provided pursuant to paragraph (3) shall be limited to information necessary to corroborate an individual's current license status as being one of the following:

(A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and who is not subject to the requirement that he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not ~~pistols, revolvers, or other firearms capable of being concealed upon the person~~ *handguns*.

SEC. 6. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to

1 any person within any of the classes prohibited by Section 12021
2 or 12021.1.

3 (2) No person, corporation, or dealer shall sell, supply, deliver,
4 or give possession or control of a firearm to any person whom he
5 or she has cause to believe to be within any of the classes
6 prohibited by Section 12021 or 12021.1 of this code or Section
7 8100 or 8103 of the Welfare and Institutions Code.

8 (3) (A) No person, corporation, or firm shall sell, loan, or
9 transfer a firearm to a minor, nor sell a handgun to an individual
10 under 21 years of age.

11 (B) Subparagraph (A) shall not apply to or affect those
12 circumstances set forth in subdivision (p) of Section 12078.

13 (4) No person, corporation, or dealer shall sell, loan, or transfer
14 a firearm to any person whom he or she knows or has cause to
15 believe is not the actual purchaser or transferee of the firearm, or
16 to any person who is not the person actually being loaned the
17 firearm, if the person, corporation, or dealer has either of the
18 following:

19 (A) Knowledge that the firearm is to be subsequently loaned,
20 sold, or transferred to avoid the provisions of subdivision (c) or
21 (d).

22 (B) Knowledge that the firearm is to be subsequently loaned,
23 sold, or transferred to avoid the requirements of any exemption to
24 the provisions of subdivision (c) or (d).

25 (5) No person, corporation, or dealer shall acquire a firearm for
26 the purpose of selling, transferring, or loaning the firearm, if the
27 person, corporation, or dealer has either of the following:

28 (A) In the case of a dealer, intent to violate subdivision (b) or
29 (c).

30 (B) In any other case, intent to avoid either of the following:

31 (i) The provisions of subdivision (d).

32 (ii) The requirements of any exemption to the provisions of
33 subdivision (d).

34 (6) The dealer shall comply with the provisions of paragraph
35 (18) of subdivision (b) of Section 12071.

36 (7) The dealer shall comply with the provisions of paragraph
37 (19) of subdivision (b) of Section 12071.

38 (8) No person shall sell or otherwise transfer his or her
39 ownership in a handgun unless the firearm bears either:

1 (A) The name of the manufacturer, the manufacturer's make or
2 model, and a manufacturer's serial number assigned to that firearm.

3 (B) The identification number or mark assigned to the firearm
4 by the Department of Justice pursuant to Section 12092.

5 (9) (A) No person shall make an application to purchase more
6 than one handgun within any 30-day period.

7 (B) Subparagraph (A) shall not apply to any of the following:

8 (i) Any law enforcement agency.

9 (ii) Any agency duly authorized to perform law enforcement
10 duties.

11 (iii) Any state or local correctional facility.

12 (iv) Any private security company licensed to do business in
13 California.

14 (v) Any person who is properly identified as a full-time paid
15 peace officer, as defined in Chapter 4.5 (commencing with Section
16 830) of Title 3 of Part 2, and who is authorized to, and does carry
17 a firearm during the course and scope of his or her employment
18 as a peace officer.

19 (vi) Any motion picture, television, or video production
20 company or entertainment or theatrical company whose production
21 by its nature involves the use of a firearm.

22 (vii) Any person who may, pursuant to Section 12078, claim
23 an exemption from the waiting period set forth in subdivision (c)
24 of this section.

25 (viii) Any transaction conducted through a licensed firearms
26 dealer pursuant to Section 12082.

27 (ix) Any person who is licensed as a collector pursuant to
28 Chapter 44 (commencing with Section 921) of Title 18 of the
29 United States Code and the regulations issued pursuant thereto
30 and who has a current certificate of eligibility issued to him or her
31 by the Department of Justice pursuant to Section 12071.

32 (x) The exchange of a handgun where the dealer purchased that
33 firearm from the person seeking the exchange within the 30-day
34 period immediately preceding the date of exchange or replacement.

35 (xi) The replacement of a handgun when the person's handgun
36 was lost or stolen, and the person reported that firearm lost or
37 stolen prior to the completion of the application to purchase to any
38 local law enforcement agency of the city, county, or city and county
39 in which he or she resides.

40 (xii) The return of any handgun to its owner.

(xiii) Community colleges that are certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a handgun to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

~~(5) (A) Commencing April 1, 1994, and until January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.~~

~~(B) Commencing January 1, 2003, no~~

(5) No handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No handgun shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction

1 shall complete the sale, loan, or transfer of that firearm through a
2 licensed firearms dealer pursuant to Section 12082.

3 (e) No person may commit an act of collusion relating to Article
4 8 (commencing with Section 12800) of Chapter 6. For purposes
5 of this section and Section 12071, collusion may be proven by any
6 one of the following factors:

7 (1) Answering a test applicant's questions during an objective
8 test relating to firearms safety.

9 (2) Knowingly grading the examination falsely.

10 (3) Providing an advance copy of the test to an applicant.

11 (4) Taking or allowing another person to take the basic firearms
12 safety course for one who is the applicant for a basic firearms
13 safety certificate or a handgun safety certificate.

14 (5) Allowing another to take the objective test for the applicant,
15 purchaser, or transferee.

16 (6) Using or allowing another to use one's identification, proof
17 of residency, or thumbprint.

18 (7) Allowing others to give unauthorized assistance during the
19 examination.

20 (8) Reference to unauthorized materials during the examination
21 and cheating by the applicant.

22 (9) Providing originals or photocopies of the objective test, or
23 any version thereof, to any person other than as authorized by the
24 department.

25 (f) (1) (A) Commencing July 1, 2008, a person who is licensed
26 pursuant to Chapter 44 (commencing with Section 921) of Title
27 18 of the United States Code may not deliver, sell, or transfer a
28 firearm to a person in California who is licensed pursuant to
29 Chapter 44 (commencing with Section 921) of Title 18 of the
30 United States Code unless, prior to delivery, the person intending
31 to deliver, sell, or transfer the firearm obtains a verification number
32 via the Internet for the intended delivery, sale, or transfer, from
33 the department. If Internet service is unavailable to either the
34 department or the licensee due to a technical or other malfunction,
35 or a federal firearms licensee who is located outside of California
36 does not possess a computer or have Internet access, alternate
37 means of communication, including facsimile or telephone, shall
38 be made available for a licensee to obtain a verification number
39 in order to comply with this section.

(B) For every verification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a) of Section 12083, or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086.

(C) If the department finds after the reviews specified in subparagraph (B) that the intended recipient is authorized to receive the firearm shipment, the department shall issue to the inquiring party a unique verification number for the intended delivery, sale, or transfer. One verification number shall be issued for each delivery, sale, or transfer, which may involve multiple firearms. In addition to the unique verification number, the department may provide to the inquiring party information necessary for determining the eligibility of the intended recipient to receive the firearm. The person intending to deliver, sell, or transfer the firearm shall provide the unique verification number to the recipient along with the firearm upon delivery, in a manner to be determined by the department.

(D) If the department finds after the reviews specified in subparagraph (B) that the intended recipient is not authorized to receive the firearm shipment, the department shall notify the inquiring party that the intended recipient is ineligible to receive the shipment.

(E) The department shall prescribe the manner in which the verification numbers may be requested via the Internet, or by alternate means of communication, such as by facsimile or telephone, including all required enrollment information and procedures.

(2) (A) ~~On or after January 1, 1998, within~~ *Within 60 days of bringing a handgun into this state, and commencing July 1, 2012, within 60 days of bringing any firearm into this state,* a personal ~~handgun~~ *firearm* importer shall do one of the following:

(i) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

1 (ii) Sell or transfer the firearm in accordance with the provisions
2 of subdivision (d) or in accordance with the provisions of an
3 exemption from subdivision (d).

4 (iii) Sell or transfer the firearm to a dealer licensed pursuant to
5 Section 12071.

6 (iv) Sell or transfer the firearm to a sheriff or police department.

7 (B) If the personal ~~handgun~~ *firearm* importer sells or transfers
8 the ~~handgun~~ *firearm* pursuant to subdivision (d) of Section 12072
9 and the sale or transfer cannot be completed by the dealer to the
10 purchaser or transferee, and the firearm can be returned to the
11 personal ~~handgun~~ *firearm* importer, the personal ~~handgun~~ *firearm*
12 importer shall have complied with the provisions of this paragraph.

13 (C) The provisions of this paragraph are cumulative and shall
14 not be construed as restricting the application of any other law.
15 However, an act or omission punishable in different ways by this
16 section and different provisions of the Penal Code shall not be
17 punished under more than one provision.

18 (D) (i) ~~On and after January 1, 1998, the~~ *The* department shall
19 conduct a public education and notification program regarding this
20 paragraph to ensure a high degree of publicity of the provisions
21 of this paragraph.

22 (ii) As part of the public education and notification program
23 described in this subparagraph, the department shall do all of the
24 following:

25 (I) Work in conjunction with the Department of Motor Vehicles
26 to ensure that any person who is subject to this paragraph is advised
27 of the provisions of this paragraph, and provided with blank copies
28 of the report described in clause (i) of subparagraph (A) at the time
29 that person applies for a California driver's license or registers his
30 or her motor vehicle in accordance with the Vehicle Code.

31 (II) Make the reports referred to in clause (i) of subparagraph
32 (A) available to dealers licensed pursuant to Section 12071.

33 (III) Make the reports referred to in clause (i) of subparagraph
34 (A) available to law enforcement agencies.

35 (IV) Make persons subject to the provisions of this paragraph
36 aware of the fact that reports referred to in clause (i) of
37 subparagraph (A) may be completed at either the licensed premises
38 of dealers licensed pursuant to Section 12071 or at law enforcement
39 agencies, that it is advisable to do so for the sake of accuracy and
40 completeness of the reports, that prior to transporting a ~~handgun~~

1 *firearm* to a law enforcement agency in order to comply with
2 subparagraph (A), the person should give prior notice to the law
3 enforcement agency that he or she is doing so, and that in any
4 event, the handgun should be transported unloaded and in a locked
5 container *and a firearm that is not a handgun should be transported*
6 *unloaded.*

7 (iii) Any costs incurred by the department to implement this
8 paragraph shall be absorbed by the department within its existing
9 budget and the fees in the Dealers' Record of Sale Special Account
10 allocated for implementation of this subparagraph pursuant to
11 Section 12076.

12 (3) Where a person who is licensed as a collector pursuant to
13 Chapter 44 (commencing with Section 921) of Title 18 of the
14 United States Code and the regulations issued pursuant thereto,
15 whose licensed premises are within this state, acquires a handgun,
16 *and after July 1, 2012, any firearm that in either case is a curio or*
17 *relic, as defined in Section 478.11 of Title 27 of the Code of*
18 *Federal Regulations, outside of this state, takes actual possession*
19 *of that firearm outside of this state pursuant to the provisions of*
20 *subsection (j) of Section 923 of Title 18 of the United States Code,*
21 *as amended by Public Law 104-208, and transports that firearm*
22 *into this state, within five days of that licensed collector*
23 *transporting that firearm into this state, he or she shall report to*
24 *the department in a format prescribed by the department his or her*
25 *acquisition of that firearm.*

26 (4) (A) It is the intent of the Legislature that a violation of
27 paragraph (2) or (3) shall not constitute a "continuing offense" and
28 the statute of limitations for commencing a prosecution for a
29 violation of paragraph (2) or (3) commences on the date that the
30 applicable grace period specified in paragraph (2) or (3) expires.

31 (B) Paragraphs (2) and (3) shall not apply to a person who
32 reports his or her ownership of a handgun after the applicable grace
33 period specified in paragraph (2) or (3) expires if evidence of that
34 violation arises only as the result of the person submitting the
35 report described in paragraph (2) or (3).

36 (g) (1) Except as provided in paragraph (2), (3), or (5), a
37 violation of this section is a misdemeanor.

38 (2) If any of the following circumstances apply, a violation of
39 this section is punishable by imprisonment in the state prison for
40 two, three, or four years.

1 (A) If the violation is of paragraph (1) of subdivision (a).

2 (B) If the defendant has a prior conviction of violating the
3 provisions, other than paragraph (9) of subdivision (a), of this
4 section or former Section 12100 of this code or Section 8101 of
5 the Welfare and Institutions Code.

6 (C) If the defendant has a prior conviction of violating any
7 offense specified in subdivision (b) of Section 12021.1 or of a
8 violation of Section 12020, 12220, or 12520, or of former Section
9 12560.

10 (D) If the defendant is in a prohibited class described in Section
11 12021 or 12021.1 of this code or Section 8100 or 8103 of the
12 Welfare and Institutions Code.

13 (E) A violation of this section by a person who actively
14 participates in a “criminal street gang” as defined in Section 186.22.

15 (F) A violation of subdivision (b) involving the delivery of any
16 firearm to a person who the dealer knows, or should know, is a
17 minor.

18 (3) If any of the following circumstances apply, a violation of
19 this section shall be punished by imprisonment in a county jail not
20 exceeding one year or in the state prison, or by a fine not to exceed
21 one thousand dollars (\$1,000), or by both that fine and
22 imprisonment.

23 (A) A violation of paragraph (2), (4), or (5) of subdivision (a).

24 (B) A violation of paragraph (3) of subdivision (a) involving
25 the sale, loan, or transfer of a handgun to a minor.

26 (C) A violation of subdivision (b) involving the delivery of a
27 handgun.

28 (D) A violation of paragraph (1), (3), (4), (5), or (6) of
29 subdivision (c) involving a ~~pistol, revolver, or other firearm capable~~
30 ~~of being concealed upon the person~~ *handgun*.

31 (E) A violation of subdivision (d) involving a handgun.

32 (F) A violation of subdivision (e).

33 (4) If both of the following circumstances apply, an additional
34 term of imprisonment in the state prison for one, two, or three
35 years shall be imposed in addition and consecutive to the sentence
36 prescribed.

37 (A) A violation of paragraph (2) of subdivision (a) or subdivision
38 (b).

39 (B) The firearm transferred in violation of paragraph (2) of
40 subdivision (a) or subdivision (b) is used in the subsequent

1 commission of a felony for which a conviction is obtained and the
2 prescribed sentence is imposed.

3 (5) (A) A first violation of paragraph (9) of subdivision (a) is
4 an infraction punishable by a fine of fifty dollars (\$50).

5 (B) A second violation of paragraph (9) of subdivision (a) is an
6 infraction punishable by a fine of one hundred dollars (\$100).

7 (C) A third or subsequent violation of paragraph (9) of
8 subdivision (a) is a misdemeanor.

9 (D) For purposes of this paragraph each application to purchase
10 a handgun in violation of paragraph (9) of subdivision (a) shall be
11 deemed a separate offense.

12 *SEC. 7. Section 12073 of the Penal Code is amended to read:*

13 12073. (a) As required by the Department of Justice, every
14 dealer shall keep a register or record of electronic or telephonic
15 transfer in which shall be entered the information prescribed in
16 Section 12077.

17 (b) This section shall not apply to any of the following
18 transactions:

19 (1) ~~The~~ *Until July 1, 2012, the* delivery, sale, or transfer of an
20 unloaded firearm that is not a handgun by a dealer to another dealer
21 upon proof of compliance with the requirements of paragraph (1)
22 of subdivision (f) of Section 12072.

23 (2) The delivery, sale, or transfer of an unloaded firearm by a
24 dealer to another dealer if that firearm is intended as merchandise
25 in the receiving dealer's business upon proof of compliance with
26 the requirements of paragraph (1) of subdivision (f) of Section
27 12072.

28 (3) The delivery, sale, or transfer of an unloaded firearm by a
29 dealer to a person licensed as an importer or manufacturer pursuant
30 to Chapter 44 (commencing with Section 921) of Title 18 of the
31 United States Code and any regulations issued pursuant thereto.

32 (4) The delivery, sale, or transfer of an unloaded firearm by a
33 dealer who sells, transfers, or delivers the firearm to a person who
34 resides outside this state who is licensed pursuant to Chapter 44
35 (commencing with Section 921) of Title 18 of the United States
36 Code and any regulations issued pursuant thereto.

37 (5) The delivery, sale, or transfer of an unloaded firearm by a
38 dealer to a wholesaler if that firearm is being returned to the
39 wholesaler and is intended as merchandise in the wholesaler's
40 business.

1 (6) ~~The~~ Until July 1, 2012, the delivery, sale, or transfer of an
2 unloaded firearm that is not a handgun by a dealer to himself or
3 herself.

4 (7) The loan of an unloaded firearm by a dealer who also
5 operates a target facility which holds a business or regulatory
6 license on the premises of the building designated in the license
7 or whose building designated in the license is on the premises of
8 any club or organization organized for the purpose of practicing
9 shooting at targets upon established ranges, whether public or
10 private, to a person at that target facility or club or organization,
11 if the firearm is kept at all times within the premises of the target
12 range or on the premises of the club or organization.

13 (8) The delivery of an unloaded firearm by a dealer to a
14 gunsmith for service or repair.

15 (9) The return of an unloaded firearm to the owner of that
16 firearm by a dealer, if the owner initially delivered the firearm to
17 the dealer for service or repair.

18 (10) The loan of an unloaded firearm by a dealer to a person
19 who possesses a valid entertainment firearms permit issued
20 pursuant to Section 12081, for use solely as a prop in a motion
21 picture, television, video, theatrical, or other entertainment
22 production or event.

23 (11) The loan of an unloaded firearm by a dealer to a
24 consultant-evaluator, if the loan does not exceed 45 days from the
25 date of delivery of the firearm by the dealer to the
26 consultant-evaluator.

27 (c) A violation of this section is a misdemeanor.

28 *SEC. 8. Section 12076 of the Penal Code is amended to read:*

29 12076. (a) (1) Before January 1, 1998, the Department of
30 Justice shall determine the method by which a dealer shall submit
31 firearm purchaser information to the department and the
32 information shall be in one of the following formats:

33 (A) Submission of the register described in Section 12077.

34 (B) Electronic or telephonic transfer of the information contained
35 in the register described in Section 12077.

36 (2) On or after January 1, 1998, electronic or telephonic transfer,
37 including voice or facsimile transmission, shall be the exclusive
38 means by which purchaser information is transmitted to the
39 department.

1 (3) On or after January 1, 2003, except as permitted by the
2 department, electronic transfer shall be the exclusive means by
3 which information is transmitted to the department. Telephonic
4 transfer shall not be permitted for information regarding sales of
5 any firearms.

6 (b) (1) Where the register is used, the purchaser of any firearm
7 shall be required to present clear evidence of his or her identity
8 and age, as defined in Section 12071, to the dealer, and the dealer
9 shall require him or her to sign his or her current legal name and
10 affix his or her residence address and date of birth to the register
11 in quadruplicate. The salesperson shall affix his or her signature
12 to the register in quadruplicate as a witness to the signature and
13 identification of the purchaser. Any person furnishing a fictitious
14 name or address or knowingly furnishing any incorrect information
15 or knowingly omitting any information required to be provided
16 for the register and any person violating any provision of this
17 section is guilty of a misdemeanor, provided however, that any
18 person who is prohibited from obtaining a firearm pursuant to
19 Section 12021 or 12021.1 of this code, or Section 8100 or 8103
20 of the Welfare and Institutions Code who knowingly furnishes a
21 fictitious name or address or knowingly furnishes any incorrect
22 information or knowingly omits any information required to be
23 provided for the register shall be punished by imprisonment in a
24 county jail not exceeding one year or imprisonment in the state
25 prison for a term of 8, 12, or 18 months.

26 (2) The original of the register shall be retained by the dealer
27 in consecutive order. Each book of 50 originals shall become the
28 permanent register of transactions that shall be retained for not
29 less than three years from the date of the last transaction and shall
30 be available for the inspection of any peace officer, Department
31 of Justice employee designated by the Attorney General, or agent
32 of the federal Bureau of Alcohol, Tobacco, Firearms and
33 Explosives upon the presentation of proper identification, but *until*
34 *July 1, 2012*, no information shall be compiled therefrom regarding
35 the purchasers or other transferees of firearms that are not ~~pistols,~~
36 ~~revolvers, or other firearms capable of being concealed upon the~~
37 ~~person~~ *handguns*.

38 (3) Two copies of the original sheet of the register, on the date
39 of the application to purchase, shall be placed in the mail, postage
40 prepaid, and properly addressed to the Department of Justice.

1 (4) If requested, a photocopy of the original shall be provided
2 to the purchaser by the dealer.

3 (5) If the transaction is a private party transfer conducted
4 pursuant to Section 12082, a photocopy of the original shall be
5 provided to the seller or purchaser by the dealer, upon request.
6 The dealer shall redact all of the purchaser's personal information,
7 as required pursuant to paragraph (1) of subdivision (b) and
8 paragraph (1) of subdivision (c) of Section 12077, from the seller's
9 copy, and the seller's personal information from the purchaser's
10 copy.

11 (c) (1) Where the electronic or telephonic transfer of applicant
12 information is used, the purchaser shall be required to present clear
13 evidence of his or her identity and age, as defined in Section 12071,
14 to the dealer, and the dealer shall require him or her to sign his or
15 her current legal name to the record of electronic or telephonic
16 transfer. The salesperson shall affix his or her signature to the
17 record of electronic or telephonic transfer as a witness to the
18 signature and identification of the purchaser. Any person furnishing
19 a fictitious name or address or knowingly furnishing any incorrect
20 information or knowingly omitting any information required to be
21 provided for the electronic or telephonic transfer and any person
22 violating any provision of this section is guilty of a misdemeanor,
23 provided however, that any person who is prohibited from
24 obtaining a firearm pursuant to Section 12021 or 12021.1 of this
25 code, or Section 8100 or 8103 of the Welfare and Institutions Code
26 who knowingly furnishes a fictitious name or address or knowingly
27 furnishes any incorrect information or knowingly omits any
28 information required to be provided for the register shall be
29 punished by imprisonment in a county jail not exceeding one year
30 or imprisonment in the state prison for a term of 8, 12, or 18
31 months.

32 (2) The record of applicant information shall be transmitted to
33 the Department of Justice by electronic or telephonic transfer on
34 the date of the application to purchase.

35 (3) The original of each record of electronic or telephonic
36 transfer shall be retained by the dealer in consecutive order. Each
37 original shall become the permanent record of the transaction that
38 shall be retained for not less than three years from the date of the
39 last transaction and shall be provided for the inspection of any
40 peace officer, Department of Justice employee designated by the

1 Attorney General, or agent of the federal Bureau of Alcohol,
2 Tobacco, Firearms and Explosives upon the presentation of proper
3 identification, but *until July 1, 2012*, no information shall be
4 compiled therefrom regarding the purchasers or other transferees
5 of firearms that are not ~~pistols, revolvers, or other firearms capable~~
6 ~~of being concealed upon the person~~ *handguns*.

7 (4) If requested, a copy of the record of electronic or telephonic
8 transfer shall be provided to the purchaser by the dealer.

9 (5) If the transaction is a private party transfer conducted
10 pursuant to Section 12082, a copy shall be provided to the seller
11 or purchaser by the dealer, upon request. The dealer shall redact
12 all of the purchaser's personal information, as required pursuant
13 to paragraph (1) of subdivision (b) and paragraph (1) of subdivision
14 (c) of Section 12077, from the seller's copy, and the seller's
15 personal information from the purchaser's copy.

16 (d) (1) The department shall examine its records, as well as
17 those records that it is authorized to request from the State
18 Department of Mental Health pursuant to Section 8104 of the
19 Welfare and Institutions Code, in order to determine if the
20 purchaser is a person described in subparagraph (A) of paragraph
21 (9) of subdivision (a) of Section 12072, or is prohibited by state
22 or federal law from possessing, receiving, owning, or purchasing
23 a firearm.

24 (2) To the extent that funding is available, the Department of
25 Justice may participate in the National Instant Criminal Background
26 Check System (NICS), as described in subsection (t) of Section
27 922 of Title 18 of the United States Code, and, if that participation
28 is implemented, shall notify the dealer and the chief of the police
29 department of the city or city and county in which the sale was
30 made, or if the sale was made in a district in which there is no
31 municipal police department, the sheriff of the county in which
32 the sale was made, that the purchaser is a person prohibited from
33 acquiring a firearm under federal law.

34 (3) If the department determines that the purchaser is prohibited
35 by state or federal law from possessing, receiving, owning, or
36 purchasing a firearm or is a person described in subparagraph (A)
37 of paragraph (9) of subdivision (a) of Section 12072, it shall
38 immediately notify the dealer and the chief of the police department
39 of the city or city and county in which the sale was made, or if the
40 sale was made in a district in which there is no municipal police

1 department, the sheriff of the county in which the sale was made,
2 of that fact.

3 (4) If the department determines that the copies of the register
4 submitted to it pursuant to paragraph (3) of subdivision (b) contain
5 any blank spaces or inaccurate, illegible, or incomplete information,
6 preventing identification of the purchaser or the ~~pistol, revolver,~~
7 *handgun* or other firearm to be purchased, or if any fee required
8 pursuant to subdivision (e) is not submitted by the dealer in
9 conjunction with submission of copies of the register, the
10 department may notify the dealer of that fact. Upon notification
11 by the department, the dealer shall submit corrected copies of the
12 register to the department, or shall submit any fee required pursuant
13 to subdivision (e), or both, as appropriate and, if notification by
14 the department is received by the dealer at any time prior to
15 delivery of the firearm to be purchased, the dealer shall withhold
16 delivery until the conclusion of the waiting period described in
17 Sections 12071 and 12072.

18 (5) If the department determines that the information transmitted
19 to it pursuant to subdivision (c) contains inaccurate or incomplete
20 information preventing identification of the purchaser or the ~~pistol,~~
21 ~~revolver, or other firearm capable of being concealed upon the~~
22 ~~person~~ *firearm* to be purchased, or if the fee required pursuant to
23 subdivision (e) is not transmitted by the dealer in conjunction with
24 transmission of the electronic or telephonic record, the department
25 may notify the dealer of that fact. Upon notification by the
26 department, the dealer shall transmit corrections to the record of
27 electronic or telephonic transfer to the department, or shall transmit
28 any fee required pursuant to subdivision (e), or both, as appropriate,
29 and if notification by the department is received by the dealer at
30 any time prior to delivery of the firearm to be purchased, the dealer
31 shall withhold delivery until the conclusion of the waiting period
32 described in Sections 12071 and 12072.

33 (e) The Department of Justice may require the dealer to charge
34 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
35 except that the fee may be increased at a rate not to exceed any
36 increase in the California Consumer Price Index as compiled and
37 reported by the Department of Industrial Relations. The fee shall
38 be no more than is necessary to fund the following:

39 (1) (A) The department for the cost of furnishing this
40 information.

1 (B) The department for the cost of meeting its obligations under
2 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
3 and Institutions Code.

4 (2) Local mental health facilities for state-mandated local costs
5 resulting from the reporting requirements imposed by Section 8103
6 of the Welfare and Institutions Code.

7 (3) The State Department of Mental Health for the costs resulting
8 from the requirements imposed by Section 8104 of the Welfare
9 and Institutions Code.

10 (4) Local mental hospitals, sanitariums, and institutions for
11 state-mandated local costs resulting from the reporting
12 requirements imposed by Section 8105 of the Welfare and
13 Institutions Code.

14 (5) Local law enforcement agencies for state-mandated local
15 costs resulting from the notification requirements set forth in
16 subdivision (a) of Section 6385 of the Family Code.

17 (6) Local law enforcement agencies for state-mandated local
18 costs resulting from the notification requirements set forth in
19 subdivision (c) of Section 8105 of the Welfare and Institutions
20 Code.

21 (7) For the actual costs associated with the electronic or
22 telephonic transfer of information pursuant to subdivision (c).

23 (8) The Department of Food and Agriculture for the costs
24 resulting from the notification provisions set forth in Section 5343.5
25 of the Food and Agricultural Code.

26 (9) The department for the costs associated with subparagraph
27 (D) of paragraph (2) of subdivision (f) of Section 12072.

28 (10) The department for the costs associated with funding
29 Department of Justice firearms-related regulatory and enforcement
30 activities related to the sale, purchase, loan, or transfer of firearms
31 pursuant to this chapter.

32 The fee established pursuant to this subdivision shall not exceed
33 the sum of the actual processing costs of the department, the
34 estimated reasonable costs of the local mental health facilities for
35 complying with the reporting requirements imposed by paragraph
36 (2) of this subdivision, the costs of the State Department of Mental
37 Health for complying with the requirements imposed by paragraph
38 (3) of this subdivision, the estimated reasonable costs of local
39 mental hospitals, sanitariums, and institutions for complying with
40 the reporting requirements imposed by paragraph (4) of this

1 subdivision, the estimated reasonable costs of local law
2 enforcement agencies for complying with the notification
3 requirements set forth in subdivision (a) of Section 6385 of the
4 Family Code, the estimated reasonable costs of local law
5 enforcement agencies for complying with the notification
6 requirements set forth in subdivision (c) of Section 8105 of the
7 Welfare and Institutions Code imposed by paragraph (6) of this
8 subdivision, the estimated reasonable costs of the Department of
9 Food and Agriculture for the costs resulting from the notification
10 provisions set forth in Section 5343.5 of the Food and Agricultural
11 Code, the estimated reasonable costs of the department for the
12 costs associated with subparagraph (D) of paragraph (2) of
13 subdivision (f) of Section 12072, and the estimated reasonable
14 costs of department firearms-related regulatory and enforcement
15 activities related to the sale, purchase, loan, or transfer of firearms
16 pursuant to this chapter.

17 (f) (1) The Department of Justice may charge a fee sufficient
18 to reimburse it for each of the following but not to exceed fourteen
19 dollars (\$14), except that the fee may be increased at a rate not to
20 exceed any increase in the California Consumer Price Index as
21 compiled and reported by the Department of Industrial Relations:

22 (A) For the actual costs associated with the preparation, sale,
23 processing, and filing of forms or reports required or utilized
24 pursuant to Section 12078.

25 (B) For the actual processing costs associated with the
26 submission of a Dealers' Record of Sale to the department.

27 (C) For the actual costs associated with the preparation, sale,
28 processing, and filing of reports utilized pursuant to subdivision
29 (l) of Section 12078 or paragraph (18) of subdivision (b) of Section
30 12071, or clause (i) of subparagraph (A) of paragraph (2) of
31 subdivision (f) of Section 12072, or paragraph (3) of subdivision
32 (f) of Section 12072.

33 (D) For the actual costs associated with the electronic or
34 telephonic transfer of information pursuant to subdivision (c).

35 (2) If the department charges a fee pursuant to subparagraph
36 (B) of paragraph (1) of this subdivision, it shall be charged in the
37 same amount to all categories of transaction that are within that
38 subparagraph.

39 (3) Any costs incurred by the Department of Justice to
40 implement this subdivision shall be reimbursed from fees collected

1 and charged pursuant to this subdivision. No fees shall be charged
2 to the dealer pursuant to subdivision (e) for implementing this
3 subdivision.

4 (g) All money received by the department pursuant to this
5 section shall be deposited in the Dealers' Record of Sale Special
6 Account of the General Fund, which is hereby created, to be
7 available, upon appropriation by the Legislature, for expenditure
8 by the department to offset the costs incurred pursuant to this
9 section, paragraph (1) and subparagraph (D) of paragraph (2) of
10 subdivision (f) of Section 12072, Sections 12083 and 12099,
11 subdivision (c) of Section 12131, Sections 12234, 12289, and
12 12289.5, and subdivisions (f) and (g) of Section 12305.

13 (h) Where the electronic or telephonic transfer of applicant
14 information is used, the department shall establish a system to be
15 used for the submission of the fees described in subdivision (e) to
16 the department.

17 (i) (1) ~~Only~~ *Until July 1, 2012, only* one fee shall be charged
18 pursuant to this section for a single transaction on the same date
19 for the sale of any number of firearms that are not ~~pistols, revolvers,~~
20 ~~or other firearms capable of being concealed upon the person~~
21 *handguns* or for the taking of possession of those firearms.

22 (2) In a single transaction on the same date for the delivery of
23 any number of firearms that are ~~pistols, revolvers, or other firearms~~
24 ~~capable of being concealed upon the person~~ *handguns, and*
25 *commencing July 1, 2012, for any firearm*, the department shall
26 charge a reduced fee pursuant to this section for the second and
27 subsequent firearms that are part of that transaction.

28 (j) Only one fee shall be charged pursuant to this section for a
29 single transaction on the same date for taking title or possession
30 of any number of firearms pursuant to paragraph (18) of
31 subdivision (b) of Section 12071 or subdivision (c) or (i) of Section
32 12078.

33 (k) Whenever the Department of Justice acts pursuant to this
34 section as it pertains to firearms other than ~~pistols, revolvers, or~~
35 ~~other firearms capable of being concealed upon the person~~
36 *handguns*, the department's acts or omissions shall be deemed to
37 be discretionary within the meaning of the California Tort Claims
38 Act pursuant to Division 3.6 (commencing with Section 810) of
39 Title 1 of the Government Code.

40 (l) As used in this section, the following definitions apply:

1 (1) "Purchaser" means the purchaser or transferee of a firearm
2 or a person being loaned a firearm.

3 (2) "Purchase" means the purchase, loan, or transfer of a firearm.

4 (3) "Sale" means the sale, loan, or transfer of a firearm.

5 (4) "Seller" means, if the transaction is being conducted pursuant
6 to Section 12082, the person selling, loaning, or transferring the
7 firearm.

8 *SEC. 9. Section 12077 of the Penal Code is amended to read:*

9 12077. (a) The Department of Justice shall prescribe the form
10 of the register and the record of electronic transfer pursuant to
11 Section 12074.

12 (b) (1) ~~For~~ *Until July 1, 2012, for handguns, and thereafter for*
13 *all firearms*, information contained in the register or record of
14 electronic transfer shall be the date and time of sale, make of
15 firearm, peace officer exemption status pursuant to subdivision
16 (a) of Section 12078 and the agency name, *auction or event waiting*
17 *period exemption pursuant to subdivision (g) of Section 12078,*
18 *dealer waiting period exemption pursuant to subdivision (n) of*
19 *Section 12078, dangerous weapons permitholder waiting period*
20 *exemption pursuant to subdivision (r) of Section 12078, curio and*
21 *relic waiting period exemption pursuant to subdivision (t) of*
22 *Section 12078, California Firearms Dealer number issued pursuant*
23 *to Section 12071, for transactions occurring prior to January 1,*
24 *2003, the purchaser's basic firearms safety certificate number*
25 *issued pursuant to Sections 12805 and 12809, for transactions*
26 *occurring on or after January 1, 2003, the purchaser's handgun*
27 *safety certificate number issued pursuant to Article 8 (commencing*
28 *with Section 12800), manufacturer's name if stamped on the*
29 *firearm, model name or number, if stamped on the firearm, if*
30 *applicable, serial number, other number (if more than one serial*
31 *number is stamped on the firearm), any identification number or*
32 *mark assigned to the firearm pursuant to Section 12092, provided*
33 *however, that if the firearm is not a handgun and does not have a*
34 *serial number, identification number, or mark assigned to it, a*
35 *notation as to that fact, the caliber, type of firearm, if the firearm*
36 *is new or used, barrel length, color of the firearm, full name of*
37 *purchaser, purchaser's complete date of birth, purchaser's local*
38 *address, if current address is temporary, complete permanent*
39 *address of purchaser, identification of purchaser, purchaser's place*
40 *of birth (state or country), purchaser's complete telephone number,*

1 purchaser's occupation, purchaser's sex, purchaser's physical
2 description, all legal names and aliases ever used by the purchaser,
3 yes or no answer to questions that prohibit purchase including, but
4 not limited to, conviction of a felony as described in Section 12021
5 or an offense described in Section 12021.1, the purchaser's status
6 as a person described in Section 8100 of the Welfare and
7 Institutions Code, whether the purchaser is a person who has been
8 adjudicated by a court to be a danger to others or found not guilty
9 by reason of insanity, whether the purchaser is a person who has
10 been found incompetent to stand trial or placed under
11 conservatorship by a court pursuant to Section 8103 of the Welfare
12 and Institutions Code, signature of purchaser, signature of
13 salesperson (as a witness to the purchaser's signature),
14 salesperson's certificate of eligibility number if he or she has
15 obtained a certificate of eligibility, name and complete address of
16 the dealer or firm selling the firearm as shown on the dealer's
17 license, the establishment number, if assigned, the dealer's
18 complete business telephone number, any information required by
19 Section 12082, any information required to determine whether or
20 not paragraph (6) of subdivision (c) of Section 12072 applies, and
21 a statement of the penalties for any person signing a fictitious name
22 or address or for knowingly furnishing any incorrect information
23 or for knowingly omitting any information required to be provided
24 for the register.

25 (2) ~~Effective January 1, 2003, the~~ The purchaser shall provide
26 his or her right thumbprint on the register in a manner prescribed
27 by the department. No exception to this requirement shall be
28 permitted except by regulations adopted by the department.

29 (3) The firearms dealer shall record on the register or record of
30 electronic transfer the date that the ~~handgun~~ *firearm* is delivered.

31 (c) (1) For firearms other than handguns, information contained
32 in the register or record of electronic transfer shall be the date and
33 time of sale, peace officer exemption status pursuant to subdivision
34 (a) of Section 12078 and the agency name, auction or event waiting
35 period exemption pursuant to subdivision (g) of Section 12078,
36 California Firearms Dealer number issued pursuant to Section
37 12071, dangerous weapons permitholder waiting period exemption
38 pursuant to subdivision (r) of Section 12078, curio and relic waiting
39 period exemption pursuant to paragraph (1) of subdivision (t) of
40 Section 12078, full name of purchaser, purchaser's complete date

1 of birth, purchaser's local address, if current address is temporary,
2 complete permanent address of purchaser, identification of
3 purchaser, purchaser's place of birth (state or country), purchaser's
4 complete telephone number, purchaser's occupation, purchaser's
5 sex, purchaser's physical description, all legal names and aliases
6 ever used by the purchaser, yes or no answer to questions that
7 prohibit purchase, including, but not limited to, conviction of a
8 felony as described in Section 12021 or an offense described in
9 Section 12021.1, the purchaser's status as a person described in
10 Section 8100 of the Welfare and Institutions Code, whether the
11 purchaser is a person who has been adjudicated by a court to be a
12 danger to others or found not guilty by reason of insanity, whether
13 the purchaser is a person who has been found incompetent to stand
14 trial or placed under conservatorship by a court pursuant to Section
15 8103 of the Welfare and Institutions Code, signature of purchaser,
16 signature of salesperson (as a witness to the purchaser's signature),
17 salesperson's certificate of eligibility number if he or she has
18 obtained a certificate of eligibility, name and complete address of
19 the dealer or firm selling the firearm as shown on the dealer's
20 license, the establishment number, if assigned, the dealer's
21 complete business telephone number, any information required by
22 Section 12082, and a statement of the penalties for any person
23 signing a fictitious name or address or for knowingly furnishing
24 any incorrect information or for knowingly omitting any
25 information required to be provided for the register.

26 (2) ~~Effective January 1, 2003, the~~ The purchaser shall provide
27 his or her right thumbprint on the register in a manner prescribed
28 by the department. No exception to this requirement shall be
29 permitted except by regulations adopted by the department.

30 (3) The firearms dealer shall record on the register or record of
31 electronic transfer the date that the firearm is delivered.

32 (4) *This subdivision shall become inoperative on July 1, 2012.*

33 (d) Where the register is used, the following shall apply:

34 (1) Dealers shall use ink to complete each document.

35 (2) The dealer or salesperson making a sale shall ensure that all
36 information is provided legibly. The dealer and salespersons shall
37 be informed that incomplete or illegible information will delay
38 sales.

39 (3) Each dealer shall be provided instructions regarding the
40 procedure for completion of the form and routing of the form.

1 Dealers shall comply with these instructions which shall include
2 the information set forth in this subdivision.

3 (4) One firearm transaction shall be reported on each record of
4 sale document. ~~For purposes of this subdivision, a “transaction”~~
5 ~~means a single sale, loan, or transfer of any number of firearms~~
6 ~~that are not handguns.~~

7 (e) The dealer or salesperson making a sale shall ensure that all
8 required information has been obtained from the purchaser. The
9 dealer and all salespersons shall be informed that incomplete
10 information will delay sales.

11 (f) ~~Effective January 1, 2003, the~~ The purchaser’s name, date
12 of birth, and driver’s license or identification number shall be
13 obtained electronically from the magnetic strip on the purchaser’s
14 driver’s license or identification and shall not be supplied by any
15 other means except as authorized by the department. This
16 requirement shall not apply in either of the following cases:

17 (1) The purchaser’s identification consists of a military
18 identification card.

19 (2) Due to technical limitations, the magnetic stripe reader is
20 unable to obtain the required information from the purchaser’s
21 identification. In those circumstances, the firearms dealer shall
22 obtain a photocopy of the identification as proof of compliance.

23 (3) In the event that the dealer has reported to the department
24 that the dealer’s equipment has failed, information pursuant to this
25 subdivision shall be obtained by an alternative method to be
26 determined by the department.

27 (g) As used in this section, the following definitions shall
28 control:

29 (1) “Purchaser” means the purchaser or transferee of a firearm
30 or the person being loaned a firearm.

31 (2) “Purchase” means the purchase, loan, or transfer of a firearm.

32 (3) “Sale” means the sale, loan, or transfer of a firearm.

33 *SEC. 10. Section 12077.5 of the Penal Code is amended to*
34 *read:*

35 12077.5. (a) An individual may request that the Department
36 of Justice perform a firearms eligibility check for that individual.
37 The applicant requesting the eligibility check shall provide the
38 information required by subdivision (b) or (c) of Section 12077,
39 *as applicable*, to the department, in an application specified by the
40 department.

(b) The department shall charge a fee of twenty dollars (\$20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department. Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department's notification shall state either "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed."

(d) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(e) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's Web site.

(f) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(g) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(h) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (c) the following statements:

“No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 12077.5 of the Penal Code.

A violation of these provisions is a misdemeanor.”

“If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required.”

SEC. 11. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071 and 12072 shall not apply to the deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer shall keep the certification with the record of sale. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the

1 agency by which the purchaser or transferee is employed,
2 identifying the employee as an individual authorized to conduct
3 the transaction, and authorizing the transaction for the exclusive
4 use of the agency by which he or she is employed. Within 10 days
5 of the date a handgun, *and commencing July 1, 2012, any firearm*,
6 is acquired by the agency, a record of the same shall be entered as
7 an institutional weapon into the Automated Firearms System (AFS)
8 via the California Law Enforcement Telecommunications System
9 (CLETS) by the law enforcement or state agency. Those agencies
10 without access to AFS shall arrange with the sheriff of the county
11 in which the agency is located to input this information via this
12 system.

13 (3) Subdivision (b) of Section 12801 and the preceding
14 provisions of this article do not apply to the loan of a firearm made
15 by an authorized law enforcement representative of a city, county,
16 or city and county, or the state or federal government to a peace
17 officer employed by that agency and authorized to carry a firearm
18 for the carrying and use of that firearm by that peace officer in the
19 course and scope of his or her duties.

20 (4) Subdivision (b) of Section 12801 and the preceding
21 provisions of this article do not apply to the delivery, sale, or
22 transfer of a firearm by a law enforcement agency to a peace officer
23 pursuant to Section 10334 of the Public Contract Code. Within 10
24 days of the date that a handgun, *and commencing July 1, 2012,*
25 *any firearm*, is sold, delivered, or transferred pursuant to Section
26 10334 of the Public Contract Code to that peace officer, the name
27 of the officer and the make, model, serial number, and other
28 identifying characteristics of the firearm being sold, transferred,
29 or delivered shall be entered into the Automated Firearms System
30 (AFS) via the California Law Enforcement Telecommunications
31 System (CLETS) by the law enforcement or state agency that sold,
32 transferred, or delivered the firearm. Those agencies without access
33 to AFS shall arrange with the sheriff of the county in which the
34 agency is located to input this information via this system.

35 (5) Subdivision (b) of Section 12801 and the preceding
36 provisions of this article do not apply to the delivery, sale, or
37 transfer of a firearm by a law enforcement agency to a retiring
38 peace officer who is authorized to carry a firearm pursuant to
39 Section 12027.1. Within 10 days of the date that a handgun, *and*
40 *commencing July 1, 2012, any firearm*, is sold, delivered, or

1 transferred to that retiring peace officer, the name of the officer
2 and the make, model, serial number, and other identifying
3 characteristics of the firearm being sold, transferred, or delivered
4 shall be entered into the Automated Firearms System (AFS) via
5 the California Law Enforcement Telecommunications System
6 (CLETS) by the law enforcement or state agency that sold,
7 transferred, or delivered the firearm. Those agencies without access
8 to AFS shall arrange with the sheriff of the county in which the
9 agency is located to input this information via this system.

10 (6) Subdivision (d) of Section 12072 and subdivision (b) of
11 Section 12801 do not apply to sales, deliveries, or transfers of
12 firearms to authorized representatives of cities, cities and counties,
13 counties, or state or federal governments for those governmental
14 agencies where the entity is acquiring the weapon as part of an
15 authorized, voluntary program where the entity is buying or
16 receiving weapons from private individuals. Any weapons acquired
17 pursuant to this paragraph shall be disposed of pursuant to the
18 applicable provisions of Section 12028 or 12032.

19 (7) Subdivision (d) of Section 12072 and subdivision (b) of
20 Section 12801 shall not apply to the sale, loan, delivery, or transfer
21 of a firearm made by an authorized law enforcement representative
22 of a city, county, city and county, state, or the federal government
23 to any public or private nonprofit historical society, museum, or
24 institutional collection or the purchase or receipt of that firearm
25 by that public or private nonprofit historical society, museum, or
26 institutional collection if all of the following conditions are met:

27 (A) The entity receiving the firearm is open to the public.

28 (B) The firearm prior to delivery is deactivated or rendered
29 inoperable.

30 (C) The firearm is not subject to Section 12028, 12028.5, 12030,
31 or 12032.

32 (D) The firearm is not prohibited by other provisions of law
33 from being sold, delivered, or transferred to the public at large.

34 (E) Prior to delivery, the entity receiving the firearm submits a
35 written statement to the law enforcement representative stating
36 that the firearm will not be restored to operating condition, and
37 will either remain with that entity, or if subsequently disposed of,
38 will be transferred in accordance with the applicable provisions
39 of this article and, if applicable, Section 12801.

1 (F) Within 10 days of the date that the firearm is sold, loaned,
2 delivered, or transferred to that entity, the name of the government
3 entity delivering the firearm, and the make, model, serial number,
4 and other identifying characteristics of the firearm and the name
5 of the person authorized by the entity to take possession of the
6 firearm shall be reported to the department in a manner prescribed
7 by the department.

8 (G) In the event of a change in the status of the designated
9 representative, the entity shall notify the department of a new
10 representative within 30 days.

11 (8) Subdivision (d) of Section 12072 and subdivision (b) of
12 Section 12801 shall not apply to the sale, loan, delivery, or transfer
13 of a firearm made by any person other than a representative of an
14 authorized law enforcement agency to any public or private
15 nonprofit historical society, museum, or institutional collection if
16 all of the following conditions are met:

17 (A) The entity receiving the firearm is open to the public.

18 (B) The firearm is deactivated or rendered inoperable prior to
19 delivery.

20 (C) The firearm is not of a type prohibited from being sold,
21 delivered, or transferred to the public.

22 (D) Prior to delivery, the entity receiving the firearm submits a
23 written statement to the person selling, loaning, or transferring the
24 firearm stating that the firearm will not be restored to operating
25 condition, and will either remain with that entity, or if subsequently
26 disposed of, will be transferred in accordance with the applicable
27 provisions of this article and, if applicable, Section 12801.

28 (E) If title to a handgun, *and commencing July 1, 2012, any*
29 *firearm*, is being transferred to the public or private nonprofit
30 historical society, museum, or institutional collection, then the
31 designated representative of that public or private historical society,
32 museum, or institutional collection, within 30 days of taking
33 possession of that ~~handgun~~ *firearm*, shall forward by prepaid mail
34 or deliver in person to the Department of Justice, a single report
35 signed by both parties to the transaction, that includes information
36 identifying the person representing that public or private historical
37 society, museum, or institutional collection, how title was obtained
38 and from whom, and a description of the firearm in question, along
39 with a copy of the written statement referred to in subparagraph

1 (D). The report forms that are to be completed pursuant to this
2 paragraph shall be provided by the Department of Justice.

3 (F) In the event of a change in the status of the designated
4 representative, the entity shall notify the department of a new
5 representative within 30 days.

6 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,
7 and subdivision (b) of Section 12801 shall not apply to deliveries,
8 sales, or transfers of firearms between or to importers and
9 manufacturers of firearms licensed to engage in that business
10 pursuant to Chapter 44 (commencing with Section 921) of Title
11 18 of the United States Code and the regulations issued pursuant
12 thereto.

13 (2) Subdivision (b) of Section 12801 shall not apply to the
14 delivery, sale, or transfer of a handgun to a person licensed pursuant
15 to Section 12071, where the licensee is receiving the handgun in
16 the course and scope of his or her activities as a person licensed
17 pursuant to Section 12071.

18 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
19 infrequent transfer of a firearm that is not a handgun by gift,
20 bequest, intestate succession, or other means by one individual to
21 another if both individuals are members of the same immediate
22 family. *This paragraph shall become inoperative on July 1, 2012.*

23 (2) Subdivision (d) of Section 12072 shall not apply to the
24 infrequent transfer of a handgun, *and commencing July 1, 2012,*
25 *a firearm that is not a handgun*, by gift, bequest, intestate
26 succession, or other means by one individual to another if both
27 individuals are members of the same immediate family and all of
28 the following conditions are met:

29 (A) The person to whom the firearm is transferred shall, within
30 30 days of taking possession of the firearm, forward by prepaid
31 mail or deliver in person to the Department of Justice, a report that
32 includes information concerning the individual taking possession
33 of the firearm, how title was obtained and from whom, and a
34 description of the firearm in question. The report forms that
35 individuals complete pursuant to this paragraph shall be provided
36 to them by the Department of Justice.

37 (B) The person taking title to the firearm shall first obtain a
38 handgun safety certificate, *if the firearm is a handgun.*

39 (C) The person receiving the firearm is 18 years of age or older.

1 (3) As used in this subdivision, “immediate family member”
2 means any one of the following relationships:

3 (A) Parent and child.

4 (B) Grandparent and grandchild.

5 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
6 infrequent loan of firearms between persons who are personally
7 known to each other for any lawful purpose, if the loan does not
8 exceed 30 days in duration and, when the firearm is a handgun,
9 ~~commencing January 1, 2003~~, the individual being loaned the
10 handgun has a valid handgun safety certificate.

11 (2) Subdivision (d) of Section 12072, and subdivision (b) of
12 Section 12801 shall not apply to the loan of a firearm where all of
13 the following conditions exist:

14 (A) The person loaning the firearm is at all times within the
15 presence of the person being loaned the firearm.

16 (B) The loan is for a lawful purpose.

17 (C) The loan does not exceed three days in duration.

18 (D) The individual receiving the firearm is not prohibited by
19 state or federal law from possessing, receiving, owning, or
20 purchasing a firearm.

21 (E) The person loaning the firearm is 18 years of age or older.

22 (F) The person being loaned the firearm is 18 years of age or
23 older.

24 (e) (1) Section 12071, subdivisions (c) and (d) and paragraph
25 (1) of subdivision (f) of Section 12072, and subdivision (b) of
26 Section 12801 shall not apply to the delivery of a firearm to a
27 gunsmith for service or repair, or to the return of the firearm to its
28 owner by the gunsmith, or to the delivery of a firearm by a
29 gunsmith to a person licensed pursuant to Chapter 44 (commencing
30 with Section 921) of Title 18 of the United States Code for service
31 or repair and the return of the firearm to the gunsmith.

32 (2) Paragraph (1) of subdivision (f) of Section 12072 shall not
33 apply to the delivery, sale, or transfer of any firearm in any of the
34 following circumstances:

35 (A) Where the transferor and the transferee are the same person
36 or corporation.

37 (B) Where the transfer is to or from a person who has a valid
38 entertainment firearms permit under Section 12081 and the transfer
39 involves the loan or return of firearms used solely as props in
40 television, film, or theatrical productions.

(f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a handgun, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a handgun, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a handgun at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (b) or (c) of Section 12077, *as applicable*. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the

1 same as is indicated in subdivision (b) or (c) of Section 12077, as
2 applicable.

3 (h) Subdivision (d) of Section 12072 and subdivision (b) of
4 Section 12801 shall not apply to the loan of a firearm to a person
5 18 years of age or older for the purposes of shooting at targets if
6 the loan occurs on the premises of a target facility that holds a
7 business or regulatory license or on the premises of any club or
8 organization organized for the purposes of practicing shooting at
9 targets upon established ranges, whether public or private, if the
10 firearm is at all times kept within the premises of the target range
11 or on the premises of the club or organization.

12 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
13 person who takes title or possession of a firearm that is not a
14 handgun by operation of law if the person is not prohibited by state
15 or federal law from possessing, receiving, owning, or purchasing
16 a firearm. *This paragraph shall become inoperative on July 1,*
17 *2012.*

18 (2) Subdivision (d) of Section 12072 shall not apply to a person
19 who takes title or possession of a handgun, *and commencing July*
20 *1, 2012, a firearm that is not a handgun*, by operation of law if
21 the person is not prohibited by state or federal law from possessing,
22 receiving, owning, or purchasing a firearm and all of the following
23 conditions are met:

24 (A) If the person taking title or possession is neither a levying
25 officer as defined in Section 481.140, 511.060, or 680.210 of the
26 Code of Civil Procedure, nor a person who is receiving that firearm
27 pursuant to subparagraph (G), (I), or (J) of paragraph (2) of
28 subdivision (u), the person shall, within 30 days of taking
29 possession, forward by prepaid mail or deliver in person to the
30 Department of Justice, a report of information concerning the
31 individual taking possession of the firearm, how title or possession
32 was obtained and from whom, and a description of the firearm in
33 question. The reports that individuals complete pursuant to this
34 paragraph shall be provided to them by the department.

35 (B) If the person taking title or possession is receiving the
36 firearm pursuant to subparagraph (G) of paragraph (2) of
37 subdivision (u), the person shall do both of the following:

38 (i) Within 30 days of taking possession, forward by prepaid
39 mail or deliver in person to the department, a report of information
40 concerning the individual taking possession of the firearm, how

1 title or possession was obtained and from whom, and a description
2 of the firearm in question. The reports that individuals complete
3 pursuant to this paragraph shall be provided to them by the
4 department.

5 (ii) Prior to taking title or possession of the firearm, the person
6 shall obtain a handgun safety certificate, *if the firearm is a*
7 *handgun*.

8 (C) Where the person receiving title or possession of the
9 handgun, *and commencing July 1, 2012, a firearm that is not a*
10 *handgun*, is a person described in subparagraph (I) of paragraph
11 (2) of subdivision (u), on the date that the person is delivered the
12 firearm, the name and other information concerning the person
13 taking possession of the firearm, how title or possession of the
14 firearm was obtained and from whom, and a description of the
15 firearm by make, model, serial number, and other identifying
16 characteristics shall be entered into the Automated Firearms System
17 (AFS) via the California Law Enforcement Telecommunications
18 System (CLETS) by the law enforcement or state agency that
19 transferred or delivered the firearm, *provided however, that if the*
20 *firearm is not a handgun and does not have a serial number,*
21 *identification number, or identification mark assigned to it, that*
22 *fact shall be noted*. Those agencies without access to AFS shall
23 arrange with the sheriff of the county in which the agency is located
24 to input this information via this system.

25 (D) Where the person receiving title or possession of the
26 handgun, *and commencing July 1, 2012, a firearm that is not a*
27 *handgun*, is a person described in subparagraph (J) of paragraph
28 (2) of subdivision (u), on the date that the person is delivered the
29 firearm, the name and other information concerning the person
30 taking possession of the firearm, how title or possession of the
31 firearm was obtained and from whom, and a description of the
32 firearm by make, model, serial number, and other identifying
33 characteristics shall be entered into the AFS via the CLETS by the
34 law enforcement or state agency that transferred or delivered the
35 firearm, *provided, however, that if the firearm is not a handgun*
36 *and does not have a serial number, identification number, or*
37 *identification mark assigned to it, that fact shall be noted*. Those
38 agencies without access to AFS shall arrange with the sheriff of
39 the county in which the agency is located to input this information
40 via this system. In addition, that law enforcement agency shall not

1 deliver that handgun to the person referred to in this subparagraph
2 unless, prior to the delivery of the same, the person presents proof
3 to the agency that he or she is the holder of a handgun safety
4 certificate.

5 (3) Subdivision (d) of Section 12072 shall not apply to a person
6 who takes possession of a firearm by operation of law in a
7 representative capacity who subsequently transfers ownership of
8 the firearm to himself or herself in his or her individual capacity.
9 In the case of a handgun, the individual shall obtain a handgun
10 safety certificate prior to transferring ownership to himself or
11 herself, or taking possession of a handgun in an individual capacity.

12 (j) Subdivision (d) of Section 12072 and subdivision (b) of
13 Section 12801 shall not apply to deliveries, transfers, or returns
14 of firearms made pursuant to Section 12021.3, 12028, 12028.5, or
15 12030.

16 (k) Section 12071, subdivision (c) of Section 12072, and
17 subdivision (b) of Section 12801 shall not apply to any of the
18 following:

19 (1) ~~The~~ *Until July 1, 2012, the* delivery, sale, or transfer of
20 unloaded firearms that are not handguns by a dealer to another
21 dealer upon proof of compliance with the requirements of
22 paragraph (1) of subdivision (f) of Section 12072.

23 (2) The delivery, sale, or transfer of unloaded firearms by dealers
24 to persons who reside outside this state who are licensed pursuant
25 to Chapter 44 (commencing with Section 921) of Title 18 of the
26 United States Code and the regulations issued pursuant thereto.

27 (3) The delivery, sale, or transfer of unloaded firearms to a
28 wholesaler if the firearms are being returned to the wholesaler and
29 are intended as merchandise in the wholesaler's business.

30 (4) The delivery, sale, or transfer of unloaded firearms by one
31 dealer to another dealer if the firearms are intended as merchandise
32 in the receiving dealer's business upon proof of compliance with
33 the requirements of paragraph (1) of subdivision (f) of Section
34 12072.

35 (5) ~~The~~ *Until July 1, 2012, the* delivery, sale, or transfer of an
36 unloaded firearm that is not a handgun by a dealer to himself or
37 herself.

38 (6) The loan of an unloaded firearm by a dealer who also
39 operates a target facility that holds a business or regulatory license
40 on the premises of the building designated in the license or whose

1 building designated in the license is on the premises of any club
2 or organization organized for the purposes of practicing shooting
3 at targets upon established ranges, whether public or private, to a
4 person at that target facility or that club or organization, if the
5 firearm is at all times kept within the premises of the target range
6 or on the premises of the club or organization.

7 (l) A person who is exempt from subdivision (d) of Section
8 12072 or is otherwise not required by law to report his or her
9 acquisition, ownership, or disposal of a handgun, *and commencing*
10 *July 1, 2012, a firearm that is not a handgun*, or who moves out
11 of this state with his or her handgun, *and commencing July 1, 2012,*
12 *a firearm that is not a handgun*, may submit a report of the same
13 to the Department of Justice in a format prescribed by the
14 department.

15 (m) Subdivision (d) of Section 12072 and subdivision (b) of
16 Section 12801 shall not apply to the delivery, sale, or transfer of
17 unloaded firearms to a wholesaler as merchandise in the
18 wholesaler's business by manufacturers or importers licensed to
19 engage in that business pursuant to Chapter 44 (commencing with
20 Section 921) of Title 18 of the United States Code and the
21 regulations issued pursuant thereto, or by another wholesaler, if
22 the delivery, sale, or transfer is made in accordance with Chapter
23 44 (commencing with Section 921) of Title 18 of the United States
24 Code.

25 (n) (1) The waiting period described in Section 12071 or 12072
26 shall not apply to the delivery, sale, or transfer of a handgun, *and*
27 *commencing July 1, 2012, a firearm that is not a handgun*, by a
28 dealer in either of the following situations:

29 (A) The dealer is delivering the firearm to another dealer and
30 it is not intended as merchandise in the receiving dealer's business.

31 (B) The dealer is delivering the firearm to himself or herself
32 and it is not intended as merchandise in his or her business.

33 (2) In order for this subdivision to apply, both of the following
34 shall occur:

35 (A) If the dealer is receiving the firearm from another dealer,
36 the dealer receiving the firearm shall present proof to the dealer
37 delivering the firearm that he or she is licensed pursuant to Section
38 12071 by complying with paragraph (1) of subdivision (f) of
39 Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of a firearm regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), Chapter 2.3 (commencing with Section 12275), or Chapter 2.5 (commencing with Section 12301), if the delivery, sale, or transfer of that firearm is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), Chapter 2.3 (commencing with Section 12275), or Chapter 2.5 (commencing with Section 12301).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or

1 entertainment or theatrical event, the nature of which involves the
2 use of a firearm.

3 (C) The duration of the loan does not exceed the amount of time
4 that is reasonably necessary to engage in the lawful, recreational
5 sport, including, but not limited to, competitive shooting, or
6 agricultural, ranching, or hunting activity, or a motion picture,
7 television, or video production, or entertainment or theatrical event,
8 the nature of which involves the use of a firearm.

9 (D) The duration of the loan does not, in any event, exceed 10
10 days.

11 (3) Paragraph (3) of subdivision (a), and subdivision (d), of
12 Section 12072, and subdivision (b) of Section 12801 shall not
13 apply to the loan of a handgun to a minor by his or her parent or
14 legal guardian if both of the following circumstances exist:

15 (A) The minor is being loaned the firearm for the purposes of
16 engaging in a lawful, recreational sport, including, but not limited
17 to, competitive shooting, or agricultural, ranching, or hunting
18 activity, or a motion picture, television, or video production, or
19 entertainment or theatrical event, the nature of which involves the
20 use of a firearm.

21 (B) The duration of the loan does not exceed the amount of time
22 that is reasonably necessary to engage in the lawful, recreational
23 sport, including, but not limited to, competitive shooting, or
24 agricultural, ranching, or hunting activity, or a motion picture,
25 television, or video production, or entertainment or theatrical event,
26 the nature of which involves the use of a firearm.

27 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
28 Section 12072 shall not apply to the transfer or loan of a firearm
29 that is not a handgun to a minor by his or her parent or legal
30 guardian.

31 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
32 Section 12072 shall not apply to the transfer or loan of a firearm
33 that is not a handgun to a minor by his or her grandparent who is
34 not the legal guardian of the minor if the transfer is done with the
35 express permission of the parent or legal guardian of the minor.

36 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
37 Section 12072 shall not apply to the sale of a handgun if both of
38 the following requirements are satisfied:

39 (A) The sale is to a person who is at least 18 years of age.

1 (B) The firearm is an antique firearm as defined in paragraph
2 (16) of subsection (a) of Section 921 of Title 18 of the United
3 States Code.

4 (q) Subdivision (d) of Section 12072 shall not apply to the loan
5 of a firearm that is not a handgun to a licensed hunter for use by
6 that licensed hunter for a period of time not to exceed the duration
7 of the hunting season for which that firearm is to be used.

8 (r) The waiting period described in Section 12071 or 12072
9 shall not apply to the delivery, sale, or transfer of a firearm to the
10 holder of a special weapons permit issued by the Department of
11 Justice issued pursuant to Section 12095, 12230, 12250, or 12305.
12 On the date that the application to purchase is completed, the dealer
13 delivering the firearm shall transmit to the Department of Justice
14 an electronic or telephonic report of the same as is indicated in
15 subdivision (b) or (c), *as applicable*, of Section 12077.

16 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of
17 Section 12801 shall not apply to the infrequent loan of an unloaded
18 firearm by a person who is neither a dealer as defined in Section
19 12071 nor a federal firearms licensee pursuant to Chapter 44
20 (commencing with Section 921) of Title 18 of the United States
21 Code, to a person 18 years of age or older for use solely as a prop
22 in a motion picture, television, video, theatrical, or other
23 entertainment production or event.

24 (2) Subdivision (d), and paragraph (1) of subdivision (f), of
25 Section 12072, and subdivision (b) of Section 12801 shall not
26 apply to the loan of an unloaded firearm by a person who is not a
27 dealer as defined in Section 12071 but who is a federal firearms
28 licensee pursuant to Chapter 44 (commencing with Section 921)
29 of Title 18 of the United States Code, to a person who possesses
30 a valid entertainment firearms permit issued pursuant to Section
31 12081, for use solely as a prop in a motion picture, television,
32 video, theatrical, or other entertainment production or event. The
33 person loaning the firearm pursuant to this paragraph shall retain
34 a photocopy of the entertainment firearms permit as proof of
35 compliance with this requirement.

36 (3) Subdivision (b) of Section 12071, subdivision (c) of, and
37 paragraph (1) of subdivision (f) of, Section 12072, and subdivision
38 (b) of Section 12801 shall not apply to the loan of an unloaded
39 firearm by a dealer as defined in Section 12071, to a person who
40 possesses a valid entertainment firearms permit issued pursuant

1 to Section 12081, for use solely as a prop in a motion picture,
2 television, video, theatrical, or other entertainment production or
3 event. The dealer shall retain a photocopy of the entertainment
4 firearms permit as proof of compliance with this requirement.

5 (4) Subdivision (b) of Section 12071, subdivision (c) and
6 paragraph (1) of subdivision (f) of Section 12072, and subdivision
7 (b) of Section 12801 shall not apply to the loan of an unloaded
8 firearm to a consultant-evaluator by a person licensed pursuant to
9 Section 12071 if the loan does not exceed 45 days from the date
10 of delivery. At the time of the loan, the consultant-evaluator shall
11 provide the following information, which the dealer shall retain
12 for two years:

13 (A) A photocopy of a valid, current, government-issued
14 identification to determine the consultant-evaluator's identity,
15 including, but not limited to, a California driver's license,
16 identification card, or passport.

17 (B) A photocopy of the consultant-evaluator's valid, current
18 certificate of eligibility.

19 (C) A letter from the person licensed as an importer,
20 manufacturer, or dealer pursuant to Chapter 44 (commencing with
21 Section 921) of Title 18 of the United States Code, with whom the
22 consultant-evaluator has a bona fide business relationship. The
23 letter shall detail the bona fide business purposes for which the
24 firearm is being loaned and confirm that the consultant-evaluator
25 is being loaned the firearm as part of a bona fide business
26 relationship.

27 (D) The signature of the consultant-evaluator on a form
28 indicating the date the firearm is loaned and the last day the firearm
29 may be returned.

30 (t) (1) The waiting periods described in Sections 12071 and
31 12072 shall not apply to the sale, delivery, loan, or transfer of a
32 firearm that is a curio or relic, as defined in Section 478.11 of Title
33 27 of the Code of Federal Regulations, or its successor, by a dealer
34 to a person who is licensed as a collector pursuant to Chapter 44
35 (commencing with Section 921) of Title 18 of the United States
36 Code and the regulations issued pursuant thereto who has a current
37 certificate of eligibility issued to him or her by the Department of
38 Justice pursuant to Section 12071. On the date that the delivery,
39 sale, or transfer is made, the dealer delivering the firearm shall
40 transmit to the Department of Justice an electronic or telephonic

1 report of the transaction as is indicated in subdivision (b) or (c) of
2 Section 12077.

3 (2) Subdivision (d) and paragraph (1) of subdivision (f) of
4 Section 12072 shall not apply to the infrequent sale, loan, or
5 transfer of a firearm that is not a handgun, which is a curio or relic
6 manufactured at least 50 years prior to the current date, but not
7 including replicas thereof, as defined in Section 478.11 of Title
8 27 of the Code of Federal Regulations, or its successor.

9 (u) As used in this section:

10 (1) "Infrequent" has the same meaning as in paragraph (1) of
11 subdivision (c) of Section 12070.

12 (2) "A person taking title or possession of firearms by operation
13 of law" includes, but is not limited to, any of the following
14 instances wherein an individual receives title to, or possession of,
15 firearms:

16 (A) The executor or administrator of an estate if the estate
17 includes firearms.

18 (B) A secured creditor or an agent or employee thereof when
19 the firearms are possessed as collateral for, or as a result of, a
20 default under a security agreement under the Commercial Code.

21 (C) A levying officer, as defined in Section 481.140, 511.060,
22 or 680.260 of the Code of Civil Procedure.

23 (D) A receiver performing his or her functions as a receiver if
24 the receivership estate includes firearms.

25 (E) A trustee in bankruptcy performing his or her duties if the
26 bankruptcy estate includes firearms.

27 (F) An assignee for the benefit of creditors performing his or
28 her functions as an assignee, if the assignment includes firearms.

29 (G) A transmutation of property consisting of firearms pursuant
30 to Section 850 of the Family Code.

31 (H) Firearms passing to a surviving spouse pursuant to Chapter
32 1 (commencing with Section 13500) of Part 2 of Division 8 of the
33 Probate Code.

34 (I) Firearms received by the family of a police officer or deputy
35 sheriff from a local agency pursuant to Section 50081 of the
36 Government Code.

37 (J) The transfer of a firearm by a law enforcement agency to
38 the person who found the firearm where the delivery is to the
39 person as the finder of the firearm pursuant to Article 1

1 (commencing with Section 2080) of Chapter 4 of Division 3 of
2 the Civil Code.

3 *SEC. 12. Section 12082 of the Penal Code is amended to read:*

4 12082. (a) A person shall complete any sale, loan, or transfer
5 of a firearm through a person licensed pursuant to Section 12071
6 in accordance with this section in order to comply with subdivision
7 (d) of Section 12072. The seller or transferor or the person loaning
8 the firearm shall deliver the firearm to the dealer who shall retain
9 possession of that firearm. The dealer shall then deliver the firearm
10 to the purchaser or transferee or the person being loaned the
11 firearm, if it is not prohibited, in accordance with subdivision (c)
12 of Section 12072. If the dealer cannot legally deliver the firearm
13 to the purchaser or transferee or the person being loaned the
14 firearm, the dealer shall forthwith, without waiting for the
15 conclusion of the waiting period described in Sections 12071 and
16 12072, return the firearm to the transferor or seller or the person
17 loaning the firearm. The dealer shall not return the firearm to the
18 seller or transferor or the person loaning the firearm when to do
19 so would constitute a violation of subdivision (a) of Section 12072.
20 If the dealer cannot legally return the firearm to the transferor or
21 seller or the person loaning the firearm, then the dealer shall
22 forthwith deliver the firearm to the sheriff of the county or the
23 chief of police or other head of a municipal police department of
24 any city or city and county who shall then dispose of the firearm
25 in the manner provided by Sections 12028 and 12032. The
26 purchaser or transferee or person being loaned the firearm may be
27 required by the dealer to pay a fee not to exceed ten dollars (\$10)
28 per firearm, and no other fee may be charged by the dealer for a
29 sale, loan, or transfer of a firearm conducted pursuant to this
30 section, except for the applicable fees that may be charged pursuant
31 to Sections 12076, 12076.5, and 12088.9 and forwarded to the
32 Department of Justice, and the fees set forth in Section 12805.
33 Nothing in these provisions shall prevent a dealer from charging
34 a smaller fee. The dealer may not charge any additional fees.

35 (b) The Attorney General shall adopt regulations under this
36 section to do all of the following:

37 (1) Allow the seller or transferor or the person loaning the
38 firearm, and the purchaser or transferee or the person being loaned
39 the firearm, to complete a sale, loan, or transfer through a dealer,
40 and to allow those persons and the dealer to comply with the

requirements of this section and Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of those records.

~~(2) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, to allow a personal handgun importer's ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of his or her ownership can be maintained in the registry provided by subdivision (c) of Section 11106.~~

(2) Record sufficient information for purposes of subdivision (c) of Section 11106 in the instance where a firearm is returned to a personal firearm importer because a sale or transfer of that firearm by the personal firearm importer could not be completed.

(3) Ensure that the register or record of electronic transfer shall state the name and address of the seller or transferor of the firearm or the person loaning the firearm and whether or not the person is a personal ~~handgun~~ *firearm* importer in addition to any other information required by Section 12077.

~~(c) Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.~~

~~(d)~~

(c) A violation of this section by a dealer is a misdemeanor.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 594 of the Penal Code is amended to read:~~

1 ~~594. (a) Every person who maliciously commits any of the~~
2 ~~following acts with respect to any real or personal property not his~~
3 ~~or her own, in cases other than those specified by state law, is~~
4 ~~guilty of vandalism:~~

5 ~~(1) Defaces with graffiti or other inscribed material.~~

6 ~~(2) Damages.~~

7 ~~(3) Destroys.~~

8 ~~Whenever a person violates this subdivision with respect to real~~
9 ~~property, vehicles, signs, fixtures, furnishings, or property~~
10 ~~belonging to any public entity, as defined by Section 811.2 of the~~
11 ~~Government Code, or the federal government, it shall be a~~
12 ~~permissive inference that the person neither owned the property~~
13 ~~nor had the permission of the owner to deface, damage, or destroy~~
14 ~~the property.~~

15 ~~(b) (1) If the amount of defacement, damage, or destruction is~~
16 ~~four hundred dollars (\$400) or more, vandalism is punishable by~~
17 ~~imprisonment in the state prison or in a county jail not exceeding~~
18 ~~one year, or by a fine of not more than eleven thousand dollars~~
19 ~~(\$11,000), or if the amount of defacement, damage, or destruction~~
20 ~~is ten thousand dollars (\$10,000) or more, by a fine of not more~~
21 ~~than fifty thousand dollars (\$50,000), or by both that fine and~~
22 ~~imprisonment.~~

23 ~~(2) (A) If the amount of defacement, damage, or destruction is~~
24 ~~less than four hundred dollars (\$400), vandalism is punishable by~~
25 ~~imprisonment in a county jail not exceeding one year, or by a fine~~
26 ~~of not more than one thousand dollars (\$1,000), or by both that~~
27 ~~fine and imprisonment.~~

28 ~~(B) If the amount of defacement, damage, or destruction is less~~
29 ~~than four hundred dollars (\$400), and the defendant has been~~
30 ~~previously convicted of vandalism or affixing graffiti or other~~
31 ~~inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6,~~
32 ~~or 640.7, vandalism is punishable by imprisonment in a county~~
33 ~~jail for not more than one year, or by a fine of not more than five~~
34 ~~thousand dollars (\$5,000), or by both that fine and imprisonment.~~

35 ~~(c) Upon conviction of any person under this section for acts~~
36 ~~of vandalism consisting of defacing property with graffiti or other~~
37 ~~inscribed materials, the court shall, when appropriate and feasible,~~
38 ~~in addition to any punishment imposed under subdivision (b), order~~
39 ~~the defendant to clean up, repair, or replace the damaged property~~
40 ~~himself or herself, or order the defendant, and his or her parents~~

1 ~~or guardians if the defendant is a minor, to keep the damaged~~
2 ~~property or another specified property in the community free of~~
3 ~~graffiti for up to one year. Participation of a parent or guardian is~~
4 ~~not required under this subdivision if the court deems this~~
5 ~~participation to be detrimental to the defendant, or if the parent or~~
6 ~~guardian is a single parent who must care for young children. If~~
7 ~~the court finds that graffiti cleanup is inappropriate, the court shall~~
8 ~~consider other types of community service, where feasible.~~

9 ~~(d) If a minor is personally unable to pay a fine levied for acts~~
10 ~~prohibited by this section, the parent of that minor shall be liable~~
11 ~~for payment of the fine. A court may waive payment of the fine,~~
12 ~~or any part thereof, by the parent upon a finding of good cause.~~

13 ~~(e) As used in this section, the term “graffiti or other inscribed~~
14 ~~material” includes any unauthorized inscription, word, figure,~~
15 ~~mark, or design, that is written, marked, etched, scratched, drawn,~~
16 ~~or painted on real or personal property.~~

17 ~~(f) The court may order any person ordered to perform~~
18 ~~community service or graffiti removal pursuant to paragraph (1)~~
19 ~~of subdivision (c) to undergo counseling.~~

20 ~~(g) This section shall become operative on January 1, 2002.~~