

AMENDED IN SENATE JUNE 14, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MARCH 24, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 809

Introduced by Assembly Member Feuer

February 17, 2011

An act to amend Section 21628.2 of the Business and Professions Code, to amend Sections 17000, 26600, 26610, 26615, 26805, 26820, 26840, 26845, 26850, 26865, 26890, 26905, 26955, 26960, 26965, 27050, 27060, 27065, 27130, 27400, 27410, 27415, 27540, 27560, 27565, 27590, 27600, 27610, 27615, 27655, 27660, 27665, 27730, 27860, 27875, 27880, 27920, 28000, 28060, 28100, 28160, 28170, 28180, 28210, 28215, 28220, 28230, 28240, 28245, 28400, 28410, 28415, 30105, 30150, 30160, 30165, 31705, 31715, 31720, 31735, 33850, 33860, 33865, 34355, 34365, and 34370 of, to amend and repeal Sections 27110, 27710, 27870, 27915, 27965, 28165, 31775, 31795, and 33890 of, to amend, repeal, and add Section 11106 of, and to add Section 27966 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Feuer. 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 for handguns and firearms that are not handguns. 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 conform those provisions so that the transfers and information reporting and retention requirements for handguns and firearms other than handguns are the same. This bill would provide that those exemptions become inoperative on January 1, 2013.

Existing law, subject to specified 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. A violation of these provisions is a misdemeanor.

This bill would provide that those provisions are repealed on January 1, 2013, and thereafter would require those peace officers to retain and compile information regarding firearms that are not handguns, as specified.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 January 1, 2013, apply these reporting requirements instead to a “personal firearm importer,” as defined, and would expand the reporting requirements to apply to the importation of firearms that are not handguns. *The bill would further prohibit a personal firearm importer from importing a firearm that is a .50 BMG rifle or a destructive device.*

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

The bill would make additional conforming changes and would make additional technical, nonsubstantive changes.

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.

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

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

1 SECTION 1. Section 21628.2 of the Business and Professions
2 Code, as amended by Section 17 of Chapter 178 of the Statutes of
3 2010, is amended to read:

4 21628.2. (a) For purposes of this section, the “department”
5 shall mean the Department of Justice.

6 (b) Every secondhand dealer described in Section 21626 shall,
7 in a format prescribed by the department, and on the day of the
8 transaction, electronically report to the department each firearm
9 purchased, taken in trade, taken in pawn, accepted for sale on
10 consignment, or accepted for auctioning. The secondhand dealer
11 shall retain a copy of the report submitted to the department and
12 make it available for inspection by the department, any peace
13 officer, or any local law enforcement employee who is authorized
14 by Article 1 (commencing with Section 26700) and Article 2
15 (commencing with Section 26800) of Chapter 2 of Division 6 of
16 Title 4 of Part 6 of the Penal Code to inspect a firearms transaction
17 record.

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

28 (d) All information in the secondhand dealer report of each
29 firearm described in subdivision (a) shall be electronically provided
30 by the department to the secure mailbox of the local law
31 enforcement agency described in Section 21630 within one working
32 day of receipt by the department.

33 SEC. 2. Section 11106 of the Penal Code, as amended by
34 Section 89 of Chapter 178 of the Statutes of 2010, is amended to
35 read:

36 11106. (a) In order to assist in the investigation of crime, the
37 prosecution of civil actions by city attorneys pursuant to paragraph
38 (3) of subdivision (c), the arrest and prosecution of criminals, and

1 the recovery of lost, stolen, or found property, the Attorney General
2 shall keep and properly file a complete record of all copies of
3 fingerprints, copies of licenses to carry firearms issued pursuant
4 to Section 26150, 26155, 26170, or 26215, information reported
5 to the Department of Justice pursuant to Section 26225, dealers'
6 records of sales of firearms, reports provided pursuant to Article
7 1 (commencing with Section 27500) of Chapter 4 of Division 6
8 of Title 4 of Part 6, or pursuant to any provision listed in
9 subdivision (a) of Section 16585, forms provided pursuant to
10 Section 12084, as that section read prior to being repealed, reports
11 provided pursuant to Article 1 (commencing with Section 26700)
12 and Article 2 (commencing with Section 26800) of Chapter 2 of
13 Division 6 of Title 4 of Part 6, that are not dealers' records of sales
14 of firearms, and reports of stolen, lost, found, pledged, or pawned
15 property in any city or county of this state, and shall, upon proper
16 application therefor, furnish this information to the officers referred
17 to in Section 11105.

18 (b) (1) Except as provided in subdivision (d), the Attorney
19 General shall not retain or compile any information from reports
20 filed pursuant to any provision listed in subdivision (c) of Section
21 16585 for firearms that are not handguns, from forms submitted
22 pursuant to Section 12084, as that section read prior to being
23 repealed, for firearms that are not handguns, or from dealers'
24 records of sales for firearms that are not handguns. All copies of
25 the forms submitted, or any information received in electronic
26 form, pursuant to Section 12084, as that section read prior to being
27 repealed, for firearms that are not handguns, or of the dealers'
28 records of sales for firearms that are not handguns shall be
29 destroyed within five days of the clearance by the Attorney
30 General, unless the purchaser or transferor is ineligible to take
31 possession of the firearm. All copies of the reports filed, or any
32 information received in electronic form, pursuant to any provision
33 listed in subdivision (c) of Section 16585 for firearms that are not
34 handguns shall be destroyed within five days of the receipt by the
35 Attorney General, unless retention is necessary for use in a criminal
36 prosecution.

37 (2) A peace officer, the Attorney General, a Department of
38 Justice employee designated by the Attorney General, or any
39 authorized local law enforcement employee shall not retain or
40 compile any information from a firearm transaction record, as

1 defined in Section 16550, for firearms that are not handguns unless
2 retention or compilation is necessary for use in a criminal
3 prosecution or in a proceeding to revoke a license issued pursuant
4 to Article 1 (commencing with Section 26700) and Article 2
5 (commencing with Section 26800) of Chapter 2 of Division 6 of
6 Title 4 of Part 6.

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

8 (c) (1) The Attorney General shall permanently keep and
9 properly file and maintain all information reported to the
10 Department of Justice pursuant to the following provisions as to
11 handguns and maintain a registry thereof:

12 (A) Article 1 (commencing with Section 26700) and Article 2
13 (commencing with Section 26800) of Chapter 2 of Division 6 of
14 Title 4 of Part 6.

15 (B) Article 1 (commencing with Section 27500) of Chapter 4
16 of Division 6 of Title 4 of Part 6.

17 (C) Chapter 5 (commencing with Section 28050) of Division 6
18 of Title 4 of Part 6.

19 (D) Any provision listed in subdivision (a) of Section 16585.

20 (E) Former Section 12084.

21 (F) Any other law.

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

23 (A) The name, address, identification of, place of birth (state
24 or country), complete telephone number, occupation, sex,
25 description, and all legal names and aliases ever used by the owner
26 or person being loaned the particular firearm as listed on the
27 information provided to the department on the Dealers' Record of
28 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
29 in former Section 12084, or reports made to the department
30 pursuant to any provision listed in subdivision (a) of Section 16585
31 or any other law.

32 (B) The name and address of, and other information about, any
33 person (whether a dealer or a private party) from whom the owner
34 acquired or the person being loaned the particular firearm and
35 when the firearm was acquired or loaned as listed on the
36 information provided to the department on the Dealers' Record of
37 Sale, the LEFT, or reports made to the department pursuant to any
38 provision listed in subdivision (a) of Section 16585 or any other
39 law.

1 (C) Any waiting period exemption applicable to the transaction
2 which resulted in the owner of or the person being loaned the
3 particular firearm acquiring or being loaned that firearm.

4 (D) The manufacturer's name if stamped on the firearm, model
5 name or number if stamped on the firearm, and, if applicable, the
6 serial number, other number (if more than one serial number is
7 stamped on the firearm), caliber, type of firearm, if the firearm is
8 new or used, barrel length, and color of the firearm, or, if the
9 firearm is not a handgun and does not have a serial number or any
10 identification number or mark assigned to it, that shall be noted.

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

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

27 (d) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
28 of subdivision (b) of Section 11105 may disseminate the name of
29 the subject of the record, the number of the firearms listed in the
30 record, and the description of any firearm, including the make,
31 model, and caliber, from the record relating to any firearm's sale,
32 transfer, registration, or license record, or any information reported
33 to the Department of Justice pursuant to Section 26225, Article 1
34 (commencing with Section 26700) and Article 2 (commencing
35 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part
36 6, (A) Article 1 (commencing with Section 27500) of Chapter 4
37 of Division 6 of Title 4 of Part 6, (B) Chapter 5 (commencing with
38 Section 28050) of Division 6 of Title 4 of Part 6, (C) Article 2
39 (commencing with Section 28150) of Chapter 6 of Division 6 of
40 Title 4 of Part 6, (D) Article 5 (commencing with Section 30900)

1 of Chapter 2 of Division 10 of Title 4 of Part 6, (E) Chapter 2
2 (commencing with Section 33850) of Division 11 of Title 4 of Part
3 6, or (F) any provision listed in subdivision (a) of Section 16585,
4 if the following conditions are met:

5 (A) The subject of the record has been arraigned for a crime in
6 which the victim is a person described in subdivisions (a) to (f),
7 inclusive, of Section 6211 of the Family Code and is being
8 prosecuted or is serving a sentence for the crime, or the subject of
9 the record is the subject of an emergency protective order, a
10 temporary restraining order, or an order after hearing, which is in
11 effect and has been issued by a family court under the Domestic
12 Violence Protection Act set forth in Division 10 (commencing
13 with Section 6200) of the Family Code.

14 (B) The information is disseminated only to the victim of the
15 crime or to the person who has obtained the emergency protective
16 order, the temporary restraining order, or the order after hearing
17 issued by the family court.

18 (C) Whenever a law enforcement officer disseminates the
19 information authorized by this subdivision, that officer or another
20 officer assigned to the case shall immediately provide the victim
21 of the crime with a "Victims of Domestic Violence" card, as
22 specified in subparagraph (H) of paragraph (9) of subdivision (c)
23 of Section 13701.

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

28 (e) This section shall remain in effect only until January 1, 2013,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2013, deletes or extends that date.

31 SEC. 2.5. Section 11106 is added to the Penal Code, to read:

32 11106. (a) In order to assist in the investigation of crime, the
33 prosecution of civil actions by city attorneys pursuant to paragraph
34 (3) of subdivision (c), the arrest and prosecution of criminals, and
35 the recovery of lost, stolen, or found property, the Attorney General
36 shall keep and properly file a complete record of all copies of
37 fingerprints, copies of licenses to carry firearms issued pursuant
38 to Section 26150, 26155, 26170, or 26215, information reported
39 to the Department of Justice pursuant to Section 26225, dealers'
40 records of sales of firearms, reports provided pursuant to Article

1 1 (commencing with Section 27500) of Chapter 4 of Division 6
2 of Title 4 of Part 6, or pursuant to any provision listed in
3 subdivision (a) of Section 16585, forms provided pursuant to
4 Section 12084, as that section read prior to being repealed, reports
5 provided pursuant to Article 1 (commencing with Section 26700)
6 and Article 2 (commencing with Section 26800) of Chapter 2 of
7 Division 6 of Title 4 of Part 6, that are not dealers' records of sales
8 of firearms, and reports of stolen, lost, found, pledged, or pawned
9 property in any city or county of this state, and shall, upon proper
10 application therefor, furnish this information to the officers referred
11 to in Section 11105.

12 (b) (1) The Attorney General shall permanently keep and
13 properly file and maintain all information reported to the
14 Department of Justice pursuant to the following provisions as to
15 firearms and maintain a registry thereof:

16 (A) Article 1 (commencing with Section 26700) and Article 2
17 (commencing with Section 26800) of Chapter 2 of Division 6 of
18 Title 4 of Part 6.

19 (B) Article 1 (commencing with Section 27500) of Chapter 4
20 of Division 6 of Title 4 of Part 6.

21 (C) Chapter 5 (commencing with Section 28050) of Division 6
22 of Title 4 of Part 6.

23 (D) Any provision listed in subdivision (a) of Section 16585.

24 (E) Former Section 12084.

25 (F) Any other law.

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

27 (A) The name, address, identification of, place of birth (state
28 or country), complete telephone number, occupation, sex,
29 description, and all legal names and aliases ever used by the owner
30 or person being loaned the particular firearm as listed on the
31 information provided to the department on the Dealers' Record of
32 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
33 in former Section 12084, or reports made to the department
34 pursuant to any provision listed in subdivision (a) of Section 16585
35 or any other law.

36 (B) The name and address of, and other information about, any
37 person (whether a dealer or a private party) from whom the owner
38 acquired or the person being loaned the particular firearm and
39 when the firearm was acquired or loaned as listed on the
40 information provided to the department on the Dealers' Record of

1 Sale, the LEFT, or reports made to the department pursuant to any
2 provision listed in subdivision (a) of Section 16585 or any other
3 law.

4 (C) Any waiting period exemption applicable to the transaction
5 which resulted in the owner of or the person being loaned the
6 particular firearm acquiring or being loaned that firearm.

7 (D) The manufacturer's name if stamped on the firearm, model
8 name or number if stamped on the firearm, and, if applicable, the
9 serial number, other number (if more than one serial number is
10 stamped on the firearm), caliber, type of firearm, if the firearm is
11 new or used, barrel length, and color of the firearm, or, if the
12 firearm is not a handgun and does not have a serial number or any
13 identification number or mark assigned to it, that shall be noted.

14 (3) Information in the registry referred to in this subdivision
15 shall, upon proper application therefor, be furnished to the officers
16 referred to in Section 11105, to a city attorney prosecuting a civil
17 action, solely for use in prosecuting that civil action and not for
18 any other purpose, or to the person listed in the registry as the
19 owner or person who is listed as being loaned the particular firearm.

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

30 (c) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
31 of subdivision (b) of Section 11105 may disseminate the name of
32 the subject of the record, the number of the firearms listed in the
33 record, and the description of any firearm, including the make,
34 model, and caliber, from the record relating to any firearm's sale,
35 transfer, registration, or license record, or any information reported
36 to the Department of Justice pursuant to Section 26225, Article 1
37 (commencing with Section 26700) and Article 2 (commencing
38 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part
39 6, Article 1 (commencing with Section 27500) of Chapter 4 of
40 Division 6 of Title 4 of Part 6, Chapter 5 (commencing with

1 Section 28050) of Division 6 of Title 4 of Part 6, Article 2
 2 (commencing with Section 28150) of Chapter 6 of Division 6 of
 3 Title 4 of Part 6, Article 5 (commencing with Section 30900) of
 4 Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2
 5 (commencing with Section 33850) of Division 11 of Title 4 of Part
 6 6, or any provision listed in subdivision (a) of Section 16585, if
 7 the following conditions are met:

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

17 (B) The information is disseminated only to the victim of the
 18 crime or to the person who has obtained the emergency protective
 19 order, the temporary restraining order, or the order after hearing
 20 issued by the family court.

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

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

31 (d) This section shall become operative January 1, 2013.

32 SEC. 3. Section 17000 of the Penal Code is amended to read:

33 17000. (a) As used in this part, until January 1, 2013, any
 34 reference to the term “personal firearm importer” shall be deemed
 35 to mean “personal handgun importer” and, on and after January
 36 1, 2013, any reference to the term “personal handgun importer”
 37 shall be deemed to mean “personal firearm importer.” A “personal
 38 handgun importer,” until January 1, 2013, and commencing January
 39 1, 2013, a “personal firearm importer” means an individual who
 40 meets all of the following criteria:

- 1 (1) The individual is not a person licensed pursuant to Article
2 1 (commencing with Section 26700) and Article 2 (commencing
3 with Section 26800) of Chapter 2 of Division 6 of Title 4.
- 4 (2) The individual is not a licensed manufacturer of firearms
5 pursuant to Chapter 44 (commencing with Section 921) of Title
6 18 of the United States Code.
- 7 (3) The individual is not a licensed importer of firearms pursuant
8 to Chapter 44 (commencing with Section 921) of Title 18 of the
9 United States Code and the regulations issued pursuant thereto.
- 10 (4) The individual is the owner of a firearm.
- 11 (5) The individual acquired that firearm outside of California.
- 12 (6) The individual moved into this state on or after January 1,
13 1998, in the case of a handgun, or in the case of a firearm that is
14 not a handgun, on or after January 1, 2013, as a resident of this
15 state.
- 16 (7) The individual intends to possess that handgun within this
17 state on or after January 1, 1998, or in the case of a firearm that is
18 not a handgun, he or she intends to possess that firearm within this
19 state on or after January 1, 2013.
- 20 (8) The firearm was not delivered to the individual by a person
21 licensed pursuant to Article 1 (commencing with Section 26700)
22 and Article 2 (commencing with Section 26800) of Chapter 2 of
23 Division 6 of Title 4, who delivered that firearm following the
24 procedures set forth in Section 27540 and Article 1 (commencing
25 with Section 26700) and Article 2 (commencing with Section
26 26800) of Chapter 2 of Division 6 of Title 4.
- 27 (9) The individual, while a resident of this state, had not
28 previously reported ownership of that firearm to the Department
29 of Justice in a manner prescribed by the department that included
30 information concerning the individual and a description of the
31 firearm.
- 32 (10) The firearm is not a firearm that is prohibited by any
33 provision listed in Section 16590.
- 34 (11) The firearm is not an assault weapon.
- 35 (12) The firearm is not a machinegun.
- 36 (13) The person is 18 years of age or older.
- 37 (14) *The firearm is not a .50 BMG rifle.*
- 38 (15) *The firearm is not a destructive device.*
- 39 (b) For purposes of paragraph (6) of subdivision (a):

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

4 (2) In the case of a member of the Armed Forces of the United
5 States, residency shall be deemed to be established when the
6 individual was discharged from active service in this state.

7 SEC. 4. Section 26600 of the Penal Code is amended to read:

8 26600. (a) Section 26500 does not apply to any sale, delivery,
9 or transfer of firearms made to an authorized law enforcement
10 representative of any city, county, city and county, or state, or of
11 the federal government, for exclusive use by that governmental
12 agency if, prior to the sale, delivery, or transfer of these firearms,
13 written authorization from the head of the agency authorizing the
14 transaction is presented to the person from whom the purchase,
15 delivery, or transfer is being made.

16 (b) Proper written authorization is defined as verifiable written
17 certification from the head of the agency by which the purchaser
18 or transferee is employed, identifying the employee as an individual
19 authorized to conduct the transaction, and authorizing the
20 transaction for the exclusive use of the agency by which that person
21 is employed.

22 (c) Within 10 days of the date a handgun, and commencing
23 January 1, 2013, any firearm, is acquired by the agency, a record
24 of the same shall be entered as an institutional weapon into the
25 Automated Firearms System (AFS) via the California Law
26 Enforcement Telecommunications System (CLETS) by the law
27 enforcement or state agency. Any agency without access to AFS
28 shall arrange with the sheriff of the county in which the agency is
29 located to input this information via this system.

30 SEC. 5. Section 26610 of the Penal Code is amended to read:

31 26610. (a) Section 26500 does not apply to the sale, delivery,
32 or transfer of a firearm by a law enforcement agency to a peace
33 officer pursuant to Section 10334 of the Public Contract Code.

34 (b) Within 10 days of the date that a handgun, and commencing
35 January 1, 2013, any firearm, is sold, delivered, or transferred
36 pursuant to Section 10334 of the Public Contract Code to that
37 peace officer, the name of the officer and the make, model, serial
38 number, and other identifying characteristics of the firearm being
39 sold, delivered, or transferred shall be entered into the Automated
40 Firearms System (AFS) via the California Law Enforcement

1 Telecommunications System (CLETS) by the law enforcement or
2 state agency that sold, delivered, or transferred the firearm,
3 provided, however, that if the firearm is not a handgun and does
4 not have a serial number, identification number, or identification
5 mark assigned to it, that fact shall be noted in AFS. Any agency
6 without access to AFS shall arrange with the sheriff of the county
7 in which the agency is located to input this information via this
8 system.

9 SEC. 6. Section 26615 of the Penal Code is amended to read:

10 26615. (a) Section 26500 does not apply to the sale, delivery,
11 or transfer of a firearm by a law enforcement agency to a retiring
12 peace officer who is authorized to carry a firearm pursuant to
13 Chapter 5 (commencing with Section 26300) of Division 5.

14 (b) Within 10 days of the date that a handgun, and commencing
15 January 1, 2013, any firearm, is sold, delivered, or transferred to
16 that retiring peace officer, the name of the officer and the make,
17 model, serial number, and other identifying characteristics of the
18 firearm being sold, delivered, or transferred shall be entered into
19 the Automated Firearms System (AFS) via the California Law
20 Enforcement Telecommunications System (CLETS) by the law
21 enforcement or state agency that sold, delivered, or transferred the
22 firearm, provided, however, that if the firearm is not a handgun
23 and does not have a serial number, identification number, or
24 identification mark assigned to it, that fact shall be noted in AFS.
25 Any agency without access to AFS shall arrange with the sheriff
26 of the county in which the agency is located to input this
27 information via this system.

28 SEC. 7. Section 26805 of the Penal Code is amended to read:

29 26805. (a) Except as provided in subdivisions (b) and (c), the
30 business of a licensee shall be conducted only in the buildings
31 designated in the license.

32 (b) (1) A person licensed pursuant to Sections 26700 and 26705
33 may take possession of firearms and commence preparation of
34 registers for the sale, delivery, or transfer of firearms at any gun
35 show or event, as defined in Section 478.100 of Title 27 of the
36 Code of Federal Regulations, or its successor, if the gun show or
37 event is not conducted from any motorized or towed vehicle. A
38 person conducting business pursuant to this subdivision shall be
39 entitled to conduct business as authorized herein at any gun show
40 or event in the state, without regard to the jurisdiction within this

1 state that issued the license pursuant to Sections 26700 and 26705,
2 provided the person complies with all applicable laws, including,
3 but not limited to, the waiting period specified in subdivision (a)
4 of Section 26815, and all applicable local laws, regulations, and
5 fees, if any.

6 (2) A person conducting business pursuant to this subdivision
7 shall publicly display the person's license issued pursuant to
8 Sections 26700 and 26705, or a facsimile thereof, at any gun show
9 or event, as specified in this subdivision.

10 (c) (1) A person licensed pursuant to Sections 26700 and 26705
11 may engage in the sale and transfer of firearms other than
12 handguns, at events specified in Sections 26955, 27655, 27900,
13 and 27905, subject to the prohibitions and restrictions contained
14 in those sections.

15 (2) A person licensed pursuant to Sections 26700 and 26705
16 may also accept delivery of firearms other than handguns, outside
17 the building designated in the license, provided the firearm is being
18 donated for the purpose of sale or transfer at an auction or similar
19 event specified in Section 27900.

20 (d) The firearm may be delivered to the purchaser, transferee,
21 or person being loaned the firearm at one of the following places:

22 (1) The building designated in the license.

23 (2) The places specified in subdivision (b) or (c).

24 (3) The place of residence of, the fixed place of business of, or
25 on private property owned or lawfully possessed by, the purchaser,
26 transferee, or person being loaned the firearm.

27 SEC. 8. Section 26820 of the Penal Code is amended to read:

28 26820. No handgun or imitation handgun, or placard advertising
29 the sale or other transfer thereof, shall be displayed in any part of
30 the premises where it can readily be seen from the outside.

31 SEC. 9. Section 26840 of the Penal Code is amended to read:

32 26840. No dealer may deliver a handgun unless the person
33 receiving the handgun presents to the dealer a valid handgun safety
34 certificate. The firearms dealer shall retain a photocopy of the
35 handgun safety certificate as proof of compliance with this
36 requirement.

37 SEC. 10. Section 26845 of the Penal Code is amended to read:

38 26845. (a) No handgun may be delivered unless the purchaser,
39 transferee, or person being loaned the firearm presents
40 documentation indicating that the person is a California resident.

1 (b) Satisfactory documentation shall include a utility bill from
2 within the last three months, a residential lease, a property deed,
3 or military permanent duty station orders indicating assignment
4 within this state, or other evidence of residency as permitted by
5 the Department of Justice.

6 (c) The firearms dealer shall retain a photocopy of the
7 documentation as proof of compliance with this requirement.

8 SEC. 11. Section 26850 of the Penal Code is amended to read:

9 26850. (a) Except as authorized by the department, no firearms
10 dealer may deliver a handgun unless the recipient performs a safe
11 handling demonstration with that handgun.

12 (b) The safe handling demonstration shall commence with the
13 handgun unloaded and locked with the firearm safety device with
14 which it is required to be delivered, if applicable. While
15 maintaining muzzle awareness, that is, the firearm is pointed in a
16 safe direction, preferably down at the ground, and trigger discipline,
17 that is, the trigger finger is outside of the trigger guard and along
18 side of the handgun frame, at all times, the handgun recipient shall
19 correctly and safely perform the following:

20 (1) If the handgun is a semiautomatic pistol, the steps listed in
21 Section 26853.

22 (2) If the handgun is a double-action revolver, the steps listed
23 in Section 26856.

24 (3) If the handgun is a single-action revolver, the steps listed in
25 Section 26859.

26 (c) The recipient shall receive instruction regarding how to
27 render that handgun safe in the event of a jam.

28 (d) The firearms dealer shall sign and date an affidavit stating
29 that the requirements of subdivisions (a) and (b) have been met.
30 The firearms dealer shall additionally obtain the signature of the
31 handgun purchaser on the same affidavit. The firearms dealer shall
32 retain the original affidavit as proof of compliance with this
33 requirement.

34 (e) The recipient shall perform the safe handling demonstration
35 for a department-certified instructor.

36 (f) No demonstration shall be required if the dealer is returning
37 the handgun to the owner of the handgun.

38 (g) Department-certified instructors who may administer the
39 safe handling demonstration shall meet the requirements set forth
40 in subdivision (b) of Section 31635.

1 (h) The persons who are exempt from the requirements of
2 subdivision (a) of Section 31615, pursuant to Section 31700, are
3 also exempt from performing the safe handling demonstration.

4 SEC. 12. Section 26865 of the Penal Code is amended to read:

5 26865. A licensee shall offer to provide the purchaser or
6 transferee of a firearm, or person being loaned a firearm, with a
7 copy of the pamphlet described in Section 34205, and may add
8 the cost of the pamphlet, if any, to the sales price of the firearm.

9 SEC. 13. Section 26890 of the Penal Code is amended to read:

10 26890. (a) Except as provided in subdivisions (b) and (c) of
11 Section 26805, any time when the licensee is not open for business,
12 all inventory firearms shall be stored in the licensed location. All
13 firearms shall be secured using one of the following methods as
14 to each particular firearm:

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

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

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

26 (b) The licensing authority in an unincorporated area of a county
27 or within a city may impose security requirements that are more
28 strict or are at a higher standard than those specified in subdivision
29 (a).

30 (c) Upon written request from a licensee, the licensing authority
31 may grant an exemption from compliance with the requirements
32 of subdivision (a) if the licensee is unable to comply with those
33 requirements because of local ordinances, covenants, lease
34 conditions, or similar circumstances not under the control of the
35 licensee.

36 (d) Subdivision (a) or (b) shall not apply to a licensee organized
37 as a nonprofit public benefit corporation pursuant to Part 2
38 (commencing with Section 5110) of Division 2 of Title 1 of the
39 Corporations Code, or as a mutual benefit corporation pursuant to
40 Part 3 (commencing with Section 7110) of Division 2 of Title 1

1 of the Corporations Code, if both of the following conditions are
2 satisfied:

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

9 (2) The firearms are not handguns.

10 SEC. 14. Section 26905 of the Penal Code is amended to read:

11 26905. (a) On the date of receipt, a licensee shall report to the
12 Department of Justice, in a format prescribed by the department,
13 the acquisition by the licensee of the ownership of a handgun, and
14 commencing January 1, 2013, of any firearm.

15 (b) The provisions of this section shall not apply to any of the
16 following transactions:

17 (1) A transaction subject to the provisions of Sections 26960
18 and 27660.

19 (2) The dealer acquired the firearm from a wholesaler.

20 (3) The dealer acquired the firearm from a person who is
21 licensed as a manufacturer or importer to engage in those activities
22 pursuant to Chapter 44 (commencing with Section 921) of Title
23 18 of the United States Code and any regulations issued pursuant
24 thereto.

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

29 (5) The dealer is also licensed as a secondhand dealer pursuant
30 to Article 4 (commencing with Section 21625) of Chapter 9 of
31 Division 8 of the Business and Professions Code, acquires a
32 handgun, and, commencing January 1, 2013, any firearm, and
33 reports its acquisition pursuant to Section 21628.2 of the Business
34 and Professions Code.

35 SEC. 15. Section 26955 of the Penal Code is amended to read:

36 26955. (a) The waiting period described in Section 26815 does
37 not apply to a dealer who delivers a firearm, other than a handgun,
38 at an auction or similar event described in Section 27900, as
39 authorized by subdivision (c) of Section 26805.

1 (b) Within two business days of completion of the application
2 to purchase, the dealer shall forward by prepaid mail to the
3 Department of Justice a report of the application as is indicated in
4 Section 28160 or 28165, as applicable.

5 (c) If the electronic or telephonic transfer of applicant
6 information is used, within two business days of completion of
7 the application to purchase, the dealer delivering the firearm shall
8 transmit to the Department of Justice an electronic or telephonic
9 report of the application as is indicated in Section 28160 or 28165,
10 as applicable.

11 SEC. 16. Section 26960 of the Penal Code is amended to read:

12 26960. (a) The waiting period described in Section 26815 does
13 not apply to the sale, delivery, or transfer of a handgun, and
14 commencing January 1, 2013, a firearm that is not a handgun, by
15 a dealer in either of the following situations:

16 (1) The dealer is delivering the firearm to another dealer, the
17 firearm is not intended as merchandise in the receiving dealer's
18 business, and the requirements of subdivisions (b) and (c) are
19 satisfied.

20 (2) The dealer is delivering the firearm to himself or herself,
21 the firearm is not intended as merchandise in the dealer's business,
22 and the requirements of subdivision (c) are satisfied.

23 (b) If the dealer is receiving the firearm from another dealer,
24 the dealer receiving the firearm shall present proof to the dealer
25 delivering the firearm that the receiving dealer is licensed pursuant
26 to Article 1 (commencing with Section 26700) and Article 2
27 (commencing with Section 26800). This shall be done by
28 complying with Section 27555.

29 (c) (1) Regardless of whether the dealer is selling, delivering,
30 or transferring the firearm to another dealer or to himself or herself,
31 on the date that the application to purchase is completed, the dealer
32 delivering the firearm shall forward by prepaid mail to the
33 Department of Justice a report of the application and the type of
34 information concerning the purchaser or transferee as is indicated
35 in Section 28160.

36 (2) Where electronic or telephonic transfer of applicant
37 information is used, on the date that the application to purchase is
38 completed, the dealer delivering the firearm shall transmit an
39 electronic or telephonic report of the application and the type of

1 information concerning the purchaser or transferee as is indicated
2 in Section 28160.

3 SEC. 17. Section 26965 of the Penal Code is amended to read:

4 26965. (a) The waiting period described in Section 26815 does
5 not apply to the sale, delivery, or transfer of a firearm to the holder
6 of a special weapons permit issued by the Department of Justice
7 pursuant to Section 32650 or 33300, pursuant to Article 3
8 (commencing with Section 18900) of Chapter 1 of Division 5 of
9 Title 2, or pursuant to Article 4 (commencing with Section 32700)
10 of Chapter 6 of Division 10.

11 (b) On the date that the application to purchase is completed,
12 the dealer delivering the firearm shall transmit to the Department
13 of Justice an electronic or telephonic report of the application as
14 is indicated in Section 28160 or 28165, as applicable.

15 SEC. 18. Section 27050 of the Penal Code is amended to read:

16 27050. (a) Article 1 (commencing with Section 26700) and
17 Article 2 (commencing with Section 26800) do not apply to any
18 sale, delivery, or transfer of firearms made to an authorized law
19 enforcement representative of any city, county, city and county,
20 or state, or of the federal government, for exclusive use by that
21 governmental agency if, prior to the sale, delivery, or transfer of
22 these firearms, written authorization from the head of the agency
23 authorizing the transaction is presented to the person from whom
24 the purchase, delivery, or transfer is being made.

25 (b) Proper written authorization is defined as verifiable written
26 certification from the head of the agency by which the purchaser
27 or transferee is employed, identifying the employee as an individual
28 authorized to conduct the transaction, and authorizing the
29 transaction for the exclusive use of the agency by which that person
30 is employed.

31 (c) Within 10 days of the date a handgun, and commencing
32 January 1, 2013, any firearm, is acquired by the agency, a record
33 of the same shall be entered as an institutional weapon into the
34 Automated Firearms System (AFS) via the California Law
35 Enforcement Telecommunications System (CLETS) by the law
36 enforcement or state agency. Any agency without access to AFS
37 shall arrange with the sheriff of the county in which the agency is
38 located to input this information via this system.

39 SEC. 19. Section 27060 of the Penal Code is amended to read:

1 27060. (a) Article 1 (commencing with Section 26700) and
2 Article 2 (commencing with Section 26800) do not apply to the
3 sale, delivery, or transfer of a firearm by a law enforcement agency
4 to a peace officer pursuant to Section 10334 of the Public Contract
5 Code.

6 (b) Within 10 days of the date that a handgun, and commencing
7 January 1, 2013, any firearm, is sold, delivered, or transferred
8 pursuant to Section 10334 of the Public Contract Code to that
9 peace officer, the name of the officer and the make, model, serial
10 number, and other identifying characteristics of the firearm being
11 sold, delivered, or transferred shall be entered into the Automated
12 Firearms System (AFS) via the California Law Enforcement
13 Telecommunications System (CLETS) by the law enforcement or
14 state agency that sold, delivered, or transferred the firearm,
15 provided, however, that if the firearm is not a handgun and does
16 not have a serial number, identification number, or identification
17 mark assigned to it, that fact shall be noted in AFS. Any agency
18 without access to AFS shall arrange with the sheriff of the county
19 in which the agency is located to input this information via this
20 system.

21 SEC. 20. Section 27065 of the Penal Code is amended to read:
22 27065. (a) Article 1 (commencing with Section 26700) and
23 Article 2 (commencing with Section 26800) do not apply to the
24 sale, delivery, or transfer of a firearm by a law enforcement agency
25 to a retiring peace officer who is authorized to carry a firearm
26 pursuant to Chapter 5 (commencing with Section 26300) of
27 Division 5.

28 (b) Within 10 days of the date that a handgun, and commencing
29 January 1, 2013, any firearm, is sold, delivered, or transferred to
30 that retiring peace officer, the name of the officer and the make,
31 model, serial number, and other identifying characteristics of the
32 firearm being sold, delivered, or transferred shall be entered into
33 the Automated Firearms System (AFS) via the California Law
34 Enforcement Telecommunications System (CLETS) by the law
35 enforcement or state agency that sold, delivered, or transferred the
36 firearm, provided, however, that if the firearm is not a handgun
37 and does not have a serial number, identification number, or
38 identification mark assigned to it, that fact shall be noted in AFS.
39 Any agency without access to AFS shall arrange with the sheriff

1 of the county in which the agency is located to input this
2 information via this system.

3 SEC. 21. Section 27110 of the Penal Code is amended to read:

4 27110. Article 1 (commencing with Section 26700) and Article
5 2 (commencing with Section 26800) do not apply to the sale,
6 delivery, or transfer of firearms if all of the following conditions
7 are satisfied:

8 (a) The firearms are unloaded.

9 (b) The firearms are not handguns.

10 (c) The sale, delivery, or transfer is made by a dealer to another
11 dealer, upon proof of compliance with the requirements of Section
12 27555.

13 (d) This section shall remain in effect only until January 1, 2013,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2013, deletes or extends that date.

16 SEC. 22. Section 27130 of the Penal Code is amended to read:

17 27130. Until January 1, 2013, Article 1 (commencing with
18 Section 26700) and Article 2 (commencing with Section 26800)
19 do not apply to the sale, delivery, or transfer of an unloaded
20 firearm, other than a handgun, by a dealer to himself or herself.

21 SEC. 23. Section 27400 of the Penal Code is amended to read:

22 27400. (a) Article 1 (commencing with Section 27200) and
23 Article 2 (commencing with Section 27300) do not apply to any
24 sale, delivery, or transfer of firearms made to an authorized law
25 enforcement representative of any city, county, city and county,
26 or state, or of the federal government, for exclusive use by that
27 governmental agency if, prior to the sale, delivery, or transfer of
28 these firearms, written authorization from the head of the agency
29 authorizing the transaction is presented to the person from whom
30 the purchase, delivery, or transfer is being made.

31 (b) Proper written authorization is defined as verifiable written
32 certification from the head of the agency by which the purchaser
33 or transferee is employed, identifying the employee as an individual
34 authorized to conduct the transaction, and authorizing the
35 transaction for the exclusive use of the agency by which that person
36 is employed.

37 (c) Within 10 days of the date a handgun, and commencing
38 January 1, 2013, any firearm, is acquired by the agency, a record
39 of the same shall be entered as an institutional weapon into the
40 Automated Firearms System (AFS) via the California Law

1 Enforcement Telecommunications System (CLETS) by the law
2 enforcement or state agency. Any agency without access to AFS
3 shall arrange with the sheriff of the county in which the agency is
4 located to input this information via this system.

5 SEC. 24. Section 27410 of the Penal Code is amended to read:

6 27410. (a) Article 1 (commencing with Section 27200) and
7 Article 2 (commencing with Section 27300) do not apply to the
8 sale, delivery, or transfer of a firearm by a law enforcement agency
9 to a peace officer pursuant to Section 10334 of the Public Contract
10 Code.

11 (b) Within 10 days of the date that a handgun, and commencing
12 January 1, 2013, any firearm, is sold, delivered, or transferred
13 pursuant to Section 10334 of the Public Contract Code to that
14 peace officer, the name of the officer and the make, model, serial
15 number, and other identifying characteristics of the firearm being
16 sold, delivered, or transferred shall be entered into the Automated
17 Firearms System (AFS) via the California Law Enforcement
18 Telecommunications System (CLETS) by the law enforcement or
19 state agency that sold, delivered, or transferred the firearm,
20 provided, however, that if the firearm is not a handgun and does
21 not have a serial number, identification number, or identification
22 mark assigned to it, that fact shall be noted in AFS. Any agency
23 without access to AFS shall arrange with the sheriff of the county
24 in which the agency is located to input this information via this
25 system.

26 SEC. 25. Section 27415 of the Penal Code is amended to read:

27 27415. (a) Article 1 (commencing with Section 27200) and
28 Article 2 (commencing with Section 27300) do not apply to the
29 sale, delivery, or transfer of a firearm by a law enforcement agency
30 to a retiring peace officer who is authorized to carry a firearm
31 pursuant to Chapter 5 (commencing with Section 26300) of
32 Division 5.

33 (b) Within 10 days of the date that a handgun, and commencing
34 January 1, 2013, any firearm, is sold, delivered, or transferred to
35 that retiring peace officer, the name of the officer and the make,
36 model, serial number, and other identifying characteristics of the
37 firearm being sold, delivered, or transferred shall be entered into
38 the Automated Firearms System (AFS) via the California Law
39 Enforcement Telecommunications System (CLETS) by the law
40 enforcement or state agency that sold, delivered, or transferred the

1 firearm, provided, however, that if the firearm is not a handgun
2 and does not have a serial number, identification number, or
3 identification mark assigned to it, that fact shall be noted in AFS.
4 Any agency without access to AFS shall arrange with the sheriff
5 of the county in which the agency is located to input this
6 information via this system.

7 SEC. 26. Section 27540 of the Penal Code is amended to read:

8 27540. No dealer, whether or not acting pursuant to Chapter
9 5 (commencing with Section 28050), shall deliver a firearm to a
10 person, as follows:

11 (a) Within 10 days of the application to purchase, or, after notice
12 by the department pursuant to Section 28220, within 10 days of
13 the submission to the department of any correction to the
14 application, or within 10 days of the submission to the department
15 of any fee required pursuant to Section 28225, whichever is later.

16 (b) Unless unloaded and securely wrapped or unloaded and in
17 a locked container.

18 (c) Unless the purchaser, transferee, or person being loaned the
19 firearm presents clear evidence of the person's identity and age to
20 the dealer.

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

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

27 (f) No handgun shall be delivered whenever the dealer is notified
28 by the Department of Justice that within the preceding 30-day
29 period the purchaser has made another application to purchase a
30 handgun and that the previous application to purchase involved
31 none of the entities specified in subdivision (b) of Section 27535.

32 SEC. 27. Section 27560 of the Penal Code is amended to read:

33 27560. (a) Within 60 days of bringing a handgun, and
34 commencing January 1, 2013, any firearm, into this state, a
35 personal firearm importer shall do one of the following:

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

1 (2) Sell or transfer the firearm in accordance with the provisions
2 of Section 27545 or in accordance with the provisions of an
3 exemption from Section 27545.

4 (3) Sell or transfer the firearm to a dealer licensed pursuant to
5 Article 1 (commencing with Section 26700) and Article 2
6 (commencing with Section 26800) of Chapter 2.

7 (4) Sell or transfer the firearm to a sheriff or police department.

8 (b) If all of the following requirements are satisfied, the personal
9 firearm importer shall have complied with the provisions of this
10 section:

11 (1) The personal firearm importer sells or transfers the firearm
12 pursuant to Section 27545.

13 (2) The sale or transfer cannot be completed by the dealer to
14 the purchaser or transferee.

15 (3) The firearm can be returned to the personal firearm importer.

16 (c) (1) The provisions of this section are cumulative and shall
17 not be construed as restricting the application of any other law.

18 (2) However, an act or omission punishable in different ways
19 by this article and different provisions of the Penal Code shall not
20 be punished under more than one provision.

21 (d) The department shall conduct a public education and
22 notification program regarding this section to ensure a high degree
23 of publicity of the provisions of this section.

24 (e) As part of the public education and notification program
25 described in this section, the department shall do all of the
26 following:

27 (1) Work in conjunction with the Department of Motor Vehicles
28 to ensure that any person who is subject to this section is advised
29 of the provisions of this section, and provided with blank copies
30 of the report described in paragraph (1) of subdivision (a), at the
31 time when that person applies for a California driver's license or
32 registers a motor vehicle in accordance with the Vehicle Code.

33 (2) Make the reports referred to in paragraph (1) of subdivision
34 (a) available to dealers licensed pursuant to Article 1 (commencing
35 with Section 26700) and Article 2 (commencing with Section
36 26800) of Chapter 2.

37 (3) Make the reports referred to in paragraph (1) of subdivision
38 (a) available to law enforcement agencies.

39 (4) Make persons subject to the provisions of this section aware
40 of all of the following:

1 (A) The report referred to in paragraph (1) of subdivision (a)
2 may be completed at either a law enforcement agency or the
3 licensed premises of a dealer licensed pursuant to Article 1
4 (commencing with Section 26700) and Article 2 (commencing
5 with Section 26800) of Chapter 2.

6 (B) It is advisable to do so for the sake of accuracy and
7 completeness of the report.

8 (C) Before transporting a firearm to a law enforcement agency
9 to comply with subdivision (a), the person should give notice to
10 the law enforcement agency that the person is doing so.

11 (D) In any event, the handgun should be transported unloaded
12 and in a locked container and a firearm that is not a handgun should
13 be transported unloaded.

14 (f) Any costs incurred by the department to implement this
15 section shall be absorbed by the department within its existing
16 budget and the fees in the Dealers' Record of Sale Special Account
17 allocated for implementation of subdivisions (d) and (e) of this
18 section pursuant to Section 28235.

19 SEC. 28. Section 27565 of the Penal Code is amended to read:

20 27565. (a) This section applies in the following circumstances:

21 (1) A person is licensed as a collector pursuant to Chapter 44
22 (commencing with Section 921) of Title 18 of the United States
23 Code and the regulations issued pursuant thereto.

24 (2) The licensed premises of that person are within this state.

25 (3) The licensed collector acquires, outside of this state, a
26 handgun, and commencing January 1, 2013, any firearm.

27 (4) The licensed collector takes actual possession of that firearm
28 outside of this state pursuant to the provisions of subsection (j) of
29 Section 923 of Title 18 of the United States Code, as amended by
30 Public Law 104-208, and transports the firearm into this state.

31 (5) The firearm is a curio or relic, as defined in Section 478.11
32 of Title 27 of the Code of Federal Regulations.

33 (b) Within five days of transporting a firearm into this state
34 under the circumstances described in subdivision (a), the licensed
35 collector shall report the acquisition of that firearm to the
36 department in a format prescribed by the department.

37 SEC. 29. Section 27590 of the Penal Code is amended to read:

38 27590. (a) Except as provided in subdivision (b), (c), or (e),
39 a violation of this article is a misdemeanor.

1 (b) If any of the following circumstances apply, a violation of
2 this article is punishable by imprisonment in the state prison for
3 two, three, or four years.

4 (1) If the violation is of subdivision (a) of Section 27500.

5 (2) If the defendant has a prior conviction of violating the
6 provisions, other than Section 27535, *Section 27560 involving a*
7 *firearm that is not a handgun, or Section 27565 involving a firearm*
8 *that is not a handgun*, of this article or former Section 12100 of
9 this code, as ~~that section~~ *Section 12100* read at any time from when
10 it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988
11 to when it was repealed by Section 18 of Chapter 23 of the Statutes
12 of 1994, or Section 8101 of the Welfare and Institutions Code.

13 (3) If the defendant has a prior conviction of violating any
14 offense specified in Section 29905 or of a violation of Section
15 32625 or 33410, or of former Section 12560, as that section read
16 at any time from when it was enacted by Section 4 of Chapter 931
17 of the Statutes of 1965 to when it was repealed by Section 14 of
18 Chapter 9 of the Statutes of 1990, or of any provision listed in
19 Section 16590.

20 (4) If the defendant is in a prohibited class described in Chapter
21 2 (commencing with Section 29800) or Chapter 3 (commencing
22 with Section 29900) of Division 9 of this title, or Section 8100 or
23 8103 of the Welfare and Institutions Code.

24 (5) A violation of this article by a person who actively
25 participates in a “criminal street gang” as defined in Section 186.22.

26 (6) A violation of Section 27510 involving the delivery of any
27 firearm to a person who the dealer knows, or should know, is a
28 minor.

29 (c) If any of the following circumstances apply, a violation of
30 this article shall be punished by imprisonment in a county jail not
31 exceeding one year or in the state prison, or by a fine not to exceed
32 one thousand dollars (\$1,000), or by both that fine and
33 imprisonment.

34 (1) A violation of Section 27515, 27520, or subdivision (b) of
35 Section 27500.

36 (2) A violation of Section 27505 involving the sale, loan, or
37 transfer of a handgun to a minor.

38 (3) A violation of Section 27510 involving the delivery of a
39 handgun.

1 (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section
2 27540 involving a handgun.

3 (5) A violation of Section 27545 involving a handgun.

4 (6) A violation of Section 27550.

5 (d) If both of the following circumstances apply, an additional
6 term of imprisonment in the state prison for one, two, or three
7 years shall be imposed in addition and consecutive to the sentence
8 prescribed.

9 (1) A violation of Section 27510 or subdivision (b) of Section
10 27500.

11 (2) The firearm transferred in violation of Section 27510 or
12 subdivision (b) of Section 27500 is used in the subsequent
13 commission of a felony for which a conviction is obtained and the
14 prescribed sentence is imposed.

15 (e) (1) A first violation of Section 27535 is an infraction
16 punishable by a fine of fifty dollars (\$50).

17 (2) A second violation of Section 27535 is an infraction
18 punishable by a fine of one hundred dollars (\$100).

19 (3) A third or subsequent violation of Section 27535 is a
20 misdemeanor.

21 (4) For purposes of this subdivision each application to purchase
22 a handgun in violation of Section 27535 shall be deemed a separate
23 offense.

24 SEC. 30. Section 27600 of the Penal Code is amended to read:

25 27600. (a) Article 1 (commencing with Section 27500) does
26 not apply to any sale, delivery, or transfer of firearms made to an
27 authorized law enforcement representative of any city, county,
28 city and county, or state, or of the federal government, for exclusive
29 use by that governmental agency if, prior to the sale, delivery, or
30 transfer of these firearms, written authorization from the head of
31 the agency authorizing the transaction is presented to the person
32 from whom the purchase, delivery, or transfer is being made.

33 (b) Proper written authorization is defined as verifiable written
34 certification from the head of the agency by which the purchaser
35 or transferee is employed, identifying the employee as an individual
36 authorized to conduct the transaction, and authorizing the
37 transaction for the exclusive use of the agency by which that person
38 is employed.

39 (c) Within 10 days of the date a handgun, and commencing
40 January 1, 2013, any firearm, is acquired by the agency, a record

1 of the same shall be entered as an institutional weapon into the
2 Automated Firearms System (AFS) via the California Law
3 Enforcement Telecommunications System (CLETS) by the law
4 enforcement or state agency. Any agency without access to AFS
5 shall arrange with the sheriff of the county in which the agency is
6 located to input this information via this system.

7 SEC. 31. Section 27610 of the Penal Code is amended to read:

8 27610. (a) Article 1 (commencing with Section 27500) does
9 not apply to the sale, delivery, or transfer of a firearm by a law
10 enforcement agency to a peace officer pursuant to Section 10334
11 of the Public Contract Code.

12 (b) Within 10 days of the date that a handgun, and commencing
13 January 1, 2013, any firearm, is sold, delivered, or transferred
14 pursuant to Section 10334 of the Public Contract Code to that
15 peace officer, the name of the officer and the make, model, serial
16 number, and other identifying characteristics of the firearm being
17 sold, delivered, or transferred shall be entered into the Automated
18 Firearms System (AFS) via the California Law Enforcement
19 Telecommunications System (CLETS) by the law enforcement or
20 state agency that sold, delivered, or transferred the firearm,
21 provided, however, that if the firearm is not a handgun and does
22 not have a serial number, identification number, or identification
23 mark assigned to it, that fact shall be noted in AFS. Any agency
24 without access to AFS shall arrange with the sheriff of the county
25 in which the agency is located to input this information via this
26 system.

27 SEC. 32. Section 27615 of the Penal Code is amended to read:

28 27615. (a) Article 1 (commencing with Section 27500) does
29 not apply to the sale, delivery, or transfer of a firearm by a law
30 enforcement agency to a retiring peace officer who is authorized
31 to carry a firearm pursuant to Chapter 5 (commencing with Section
32 26300) of Division 5.

33 (b) Within 10 days of the date that a handgun, and commencing
34 January 1, 2013, any firearm, is sold, delivered, or transferred to
35 that retiring peace officer, the name of the officer and the make,
36 model, serial number, and other identifying characteristics of the
37 firearm being sold, delivered, or transferred shall be entered into
38 the Automated Firearms System (AFS) via the California Law
39 Enforcement Telecommunications System (CLETS) by the law
40 enforcement or state agency that sold, delivered, or transferred the

1 firearm, provided, however, that if the firearm is not a handgun
2 and does not have a serial number, identification number, or
3 identification mark assigned to it, that fact shall be noted in AFS.
4 Any agency without access to AFS shall arrange with the sheriff
5 of the county in which the agency is located to input this
6 information via this system.

7 SEC. 33. Section 27655 of the Penal Code is amended to read:

8 27655. (a) The waiting period described in Section 27540 does
9 not apply to a dealer who delivers a firearm, other than a handgun,
10 at an auction or similar event described in Section 27900, as
11 authorized by subdivision (c) of Section 26805.

12 (b) Within two business days of completion of the application
13 to purchase, the dealer shall forward by prepaid mail to the
14 Department of Justice a report of the application as is indicated in
15 Section 28160 or 28165, as applicable.

16 (c) If the electronic or telephonic transfer of applicant
17 information is used, within two business days of completion of
18 the application to purchase, the dealer delivering the firearm shall
19 transmit to the Department of Justice an electronic or telephonic
20 report of the application as is indicated in Section 28160 or 28165,
21 as applicable.

22 SEC. 34. Section 27660 of the Penal Code is amended to read:

23 27660. (a) The waiting period described in Section 27540 does
24 not apply to the sale, delivery, or transfer of a handgun, and
25 commencing January 1, 2013, any firearm, by a dealer in either
26 of the following situations:

27 (1) The dealer is delivering the firearm to another dealer, the
28 firearm is not intended as merchandise in the receiving dealer's
29 business, and the requirements of subdivisions (b) and (c) are
30 satisfied.

31 (2) The dealer is delivering the firearm to himself or herself,
32 the firearm is not intended as merchandise in the dealer's business,
33 and the requirements of subdivision (c) are satisfied.

34 (b) If the dealer is receiving the firearm from another dealer,
35 the dealer receiving the firearm shall present proof to the dealer
36 delivering the firearm that the receiving dealer is licensed pursuant
37 to Article 1 (commencing with Section 26700) and Article 2
38 (commencing with Section 26800). This shall be done by
39 complying with Section 27555.

1 (c) (1) Regardless of whether the dealer is selling, delivering,
2 or transferring the firearm to another dealer or to himself or herself,
3 on the date that the application to purchase is completed, the dealer
4 delivering the firearm shall forward by prepaid mail to the
5 Department of Justice a report of the application and the type of
6 information concerning the purchaser or transferee as is indicated
7 in Section 28160.

8 (2) Where electronic or telephonic transfer of applicant
9 information is used, on the date that the application to purchase is
10 completed, the dealer delivering the firearm shall transmit an
11 electronic or telephonic report of the application and the type of
12 information concerning the purchaser or transferee as is indicated
13 in Section 28160.

14 SEC. 35. Section 27665 of the Penal Code is amended to read:

15 27665. (a) The waiting period described in Section 27540 does
16 not apply to the sale, delivery, or transfer of a firearm to the holder
17 of a special weapons permit issued by the Department of Justice
18 pursuant to Section 32650 or 33300, pursuant to Article 3
19 (commencing with Section 18900) of Chapter 1 of Division 5 of
20 Title 2, or pursuant to Article 4 (commencing with Section 32700)
21 of Chapter 6 of Division 10.

22 (b) On the date that the application to purchase is completed,
23 the dealer delivering the firearm shall transmit to the Department
24 of Justice an electronic or telephonic report of the application as
25 is indicated in Section 28160 or 28165, as applicable.

26 SEC. 36. Section 27710 of the Penal Code is amended to read:

27 27710. Section 27540 does not apply to the sale, delivery, or
28 transfer of firearms if all of the following conditions are satisfied:

29 (a) The firearms are unloaded.

30 (b) The firearms are not handguns.

31 (c) The sale, delivery, or transfer is made by a dealer to another
32 dealer, upon proof of compliance with the requirements of Section
33 27555.

34 (d) This section shall remain in effect only until January 1, 2013,
35 and as of that date is repealed, unless a later enacted statute, that
36 is enacted before January 1, 2013, deletes or extends that date.

37 SEC. 37. Section 27730 of the Penal Code is amended to read:

38 27730. Until January 1, 2013, Section 27540 does not apply
39 to the sale, delivery, or transfer of an unloaded firearm, other than
40 a handgun, by a dealer to himself or herself.

1 SEC. 38. Section 27860 of the Penal Code is amended to read:
2 27860. Section 27545 does not apply to the sale, delivery, loan,
3 or transfer of a firearm made by any person other than a
4 representative of an authorized law enforcement agency to any
5 public or private nonprofit historical society, museum, or
6 institutional collection, if all of the following conditions are met:

7 (a) The entity receiving the firearm is open to the public.

8 (b) The firearm is deactivated or rendered inoperable prior to
9 delivery.

10 (c) The firearm is not of a type prohibited from being sold,
11 delivered, or transferred to the public.

12 (d) Prior to delivery, the entity receiving the firearm submits a
13 written statement to the person selling, loaning, or transferring the
14 firearm stating that the firearm will not be restored to operating
15 condition, and will either remain with that entity, or if subsequently
16 disposed of, will be transferred in accordance with the applicable
17 provisions listed in Section 16575 and, if applicable, with Section
18 31615.

19 (e) If title to a handgun, and commencing January 1, 2013, any
20 firearm, is being transferred to the public or private nonprofit
21 historical society, museum, or institutional collection, then the
22 designated representative of that entity shall, within 30 days of
23 taking possession of that firearm, forward by prepaid mail or
24 deliver in person to the Department of Justice, a single report
25 signed by both parties to the transaction, which includes all of the
26 following information:

27 (1) Information identifying the person representing the public
28 or private historical society, museum, or institutional collection.

29 (2) Information on how title was obtained and from whom.

30 (3) A description of the firearm in question.

31 (4) A copy of the written statement referred to in subdivision
32 (d).

33 (f) The report forms that are to be completed pursuant to this
34 section shall be provided by the Department of Justice.

35 (g) In the event of a change in the status of the designated
36 representative, the entity shall notify the department of a new
37 representative within 30 days.

38 SEC. 39. Section 27870 of the Penal Code is amended to read:

39 27870. Section 27545 does not apply to the transfer of a
40 firearm, other than a handgun, by gift, bequest, intestate succession,

1 or other means from one individual to another, if both of the
 2 following requirements are satisfied:

- 3 (a) The transfer is infrequent, as defined in Section 16730.
- 4 (b) The transfer is between members of the same immediate
 5 family.
- 6 (c) This section shall remain in effect only until January 1, 2013,
 7 and as of that date is repealed, unless a later enacted statute, that
 8 is enacted before January 1, 2013, deletes or extends that date.

9 SEC. 40. Section 27875 of the Penal Code is amended to read:

10 27875. Section 27545 does not apply to the transfer of a
 11 handgun, and commencing January 1, 2013, any firearm, by gift,
 12 bequest, intestate succession, or other means from one individual
 13 to another, if all of the following requirements are met:

- 14 (a) The transfer is infrequent, as defined in Section 16730.
- 15 (b) The transfer is between members of the same immediate
 16 family.
- 17 (c) Within 30 days of taking possession of the firearm, the
 18 person to whom it is transferred shall forward by prepaid mail, or
 19 deliver in person to the Department of Justice, a report that includes
 20 information concerning the individual taking possession of the
 21 firearm, how title was obtained and from whom, and a description
 22 of the firearm in question. The report forms that individuals
 23 complete pursuant to this section shall be provided to them by the
 24 Department of Justice.

25 (d) The person taking title to the firearm shall first obtain a
 26 handgun safety certificate, if the firearm is a handgun.

27 (e) The person receiving the firearm is 18 years of age or older.

28 SEC. 41. Section 27880 of the Penal Code is amended to read:

29 27880. Section 27545 does not apply to the loan of a firearm
 30 between persons who are personally known to each other, if all of
 31 the following requirements are satisfied:

- 32 (a) The loan is infrequent, as defined in Section 16730.
- 33 (b) The loan is for any lawful purpose.
- 34 (c) The loan does not exceed 30 days in duration.
- 35 (d) If the firearm is a handgun, the individual being loaned the
 36 handgun shall have a valid handgun safety certificate.

37 SEC. 42. Section 27915 of the Penal Code is amended to read:

38 27915. Section 27545 does not apply to a person who takes
 39 title or possession of a firearm by operation of law if both of the
 40 following requirements are satisfied:

1 (a) The firearm is not a handgun.

2 (b) The person is not prohibited by state or federal law from
3 possessing, receiving, owning, or purchasing a firearm.

4 (c) This section shall remain in effect only until January 1, 2013,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2013, deletes or extends that date.

7 SEC. 43. Section 27920 of the Penal Code is amended to read:

8 27920. Section 27545 does not apply to a person who takes
9 title or possession of a handgun, and commencing January 1, 2013,
10 any firearm, by operation of law if the person is not prohibited by
11 state or federal law from possessing, receiving, owning, or
12 purchasing a firearm and all of the following conditions are met:

13 (a) If the person taking title or possession is neither a levying
14 officer as defined in Section 481.140, 511.060, or 680.260 of the
15 Code of Civil Procedure, nor a person who is receiving that firearm
16 pursuant to subdivision (g), (i), or (j) of Section 16990, the person
17 shall, within 30 days of taking possession, forward by prepaid mail
18 or deliver in person to the Department of Justice, a report of
19 information concerning the individual taking possession of the
20 firearm, how title or possession was obtained and from whom, and
21 a description of the firearm in question.

22 (b) If the person taking title or possession is receiving the
23 firearm pursuant to subdivision (g) of Section 16990, the person
24 shall do both of the following:

25 (1) Within 30 days of taking possession, forward by prepaid
26 mail or deliver in person to the department, a report of information
27 concerning the individual taking possession of the firearm, how
28 title or possession was obtained and from whom, and a description
29 of the firearm in question.

30 (2) Prior to taking title or possession of the firearm, the person
31 shall obtain a handgun safety certificate, if the firearm is a handgun.

32 (c) Where the person receiving title or possession of the
33 handgun, and commencing January 1, 2013, any firearm, is a
34 person described in subdivision (i) of Section 16990, on the date
35 that the person is delivered the firearm, the name and other
36 information concerning the person taking possession of the firearm,
37 how title or possession of the firearm was obtained and from whom,
38 and a description of the firearm by make, model, serial number,
39 and other identifying characteristics shall be entered into the
40 Automated Firearms System (AFS) via the California Law

1 Enforcement Telecommunications System (CLETS) by the law
2 enforcement or state agency that transferred or delivered the
3 firearm, provided, however, that if the firearm is not a handgun
4 and does not have a serial number, identification number, or
5 identification mark assigned to it, that fact shall be noted in AFS.
6 An agency without access to AFS shall arrange with the sheriff of
7 the county in which the agency is located to input this information
8 via this system.

9 (d) Where the person receiving title or possession of the
10 handgun, and commencing January 1, 2013, any firearm, is a
11 person described in subdivision (j) of Section 16990, on the date
12 that the person is delivered the firearm, the name and other
13 information concerning the person taking possession of the firearm,
14 how title or possession of the firearm was obtained and from whom,
15 and a description of the firearm by make, model, serial number,
16 and other identifying characteristics shall be entered into the AFS
17 via the CLETS by the law enforcement or state agency that
18 transferred or delivered the firearm, provided, however, that if the
19 firearm is not a handgun and does not have a serial number,
20 identification number, or identification mark assigned to it, that
21 fact shall be noted in AFS. An agency without access to AFS shall
22 arrange with the sheriff of the county in which the agency is located
23 to input this information via this system. In addition, if the firearm
24 is a handgun, that law enforcement agency shall not deliver that
25 handgun to the person referred to in this subdivision unless, prior
26 to the delivery of the handgun, the person presents proof to the
27 agency that the person is the holder of a handgun safety certificate.

28 (e) The reports that individuals complete pursuant to this section
29 shall be provided to them by the Department of Justice.

30 SEC. 44. Section 27965 of the Penal Code is amended to read:

31 27965. (a) If all of the following requirements are satisfied,
32 Section 27545 does not apply to the sale, loan, or transfer of a
33 firearm:

34 (1) The sale, loan, or transfer is infrequent, as defined in Section
35 16730.

36 (2) The firearm is not a handgun.

37 (3) The firearm is a curio or relic manufactured at least 50 years
38 prior to the current date but is not a replica, as defined in Section
39 478.11 of Title 27 of the Code of Federal Regulations, or its
40 successor.

1 (b) This section shall remain in effect only until January 1, 2013,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2013, deletes or extends that date.

4 SEC. 45. Section 27966 is added to the Penal Code, to read:

5 27966. Commencing January 1, 2013, if all of the following
6 requirements are satisfied, Section 27545 shall not apply to the
7 sale, loan, or transfer of a firearm:

8 (a) The sale, loan, or transfer is infrequent, as defined in Section
9 16730.

10 (b) The firearm is not a handgun.

11 (c) The firearm is a curio or relic, as defined in Section 478.11
12 of Title 27 of the Code of Federal Regulations, or its successor.

13 (d) The person receiving the firearm has a current certificate of
14 eligibility issued pursuant to Section 26710.

15 (e) The person receiving the firearm is licensed as a collector
16 pursuant to Chapter 44 of Title 18 of the United States Code and
17 the regulations issued thereto.

18 (f) Within 30 days of taking possession of the firearm, the person
19 to whom it is transferred shall forward by prepaid mail, or deliver
20 in person to the Department of Justice, a report that includes
21 information concerning the individual taking possession of the
22 firearm, how title was obtained and from whom, and a description
23 of the firearm in question. The report forms that individuals
24 complete pursuant to this section shall be provided to them by the
25 department.

26 SEC. 46. Section 28000 of the Penal Code is amended to read:

27 28000. A person who is exempt from Section 27545 or is
28 otherwise not required by law to report acquisition, ownership, or
29 disposal of a handgun, and commencing January 1, 2013, a firearm
30 that is not a handgun, or who moves out of this state with the
31 person's handgun, and commencing January 1, 2013, a firearm
32 that is not a handgun, may report that to the Department of Justice
33 in a format prescribed by the department.

34 SEC. 47. Section 28060 of the Penal Code is amended to read:

35 28060. The Attorney General shall adopt regulations under
36 this chapter to do all of the following:

37 (a) 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 preserve the

1 confidentiality of those records and to comply with the
2 requirements of this chapter and all of the following:

3 (1) Article 1 (commencing with Section 26700) and Article 2
4 (commencing with Section 26800) of Chapter 2.

5 (2) Article 1 (commencing with Section 27500) of Chapter 4.

6 (3) Article 2 (commencing with Section 28150) of Chapter 6.

7 (4) Article 3 (commencing with Section 28200) of Chapter 6.

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

12 (c) Ensure that the register or record of electronic transfer shall
13 state all of the following:

14 (1) The name and address of the seller or transferor of the
15 firearm or the person loaning the firearm.

16 (2) Whether or not the person is a personal firearm importer.

17 (3) Any other information required by Article 2 (commencing
18 with Section 28150) of Chapter 6.

19 SEC. 48. Section 28100 of the Penal Code is amended to read:

20 28100. (a) As required by the Department of Justice, every
21 dealer shall keep a register or record of electronic or telephonic
22 transfer in which shall be entered the information prescribed in
23 Article 2 (commencing with Section 28150).

24 (b) This section shall not apply to any of the following
25 transactions:

26 (1) The loan of an unloaded firearm by a dealer to a person who
27 possesses a valid entertainment firearms permit issued pursuant
28 to Chapter 2 (commencing with Section 29500) of Division 8, for
29 use solely as a prop in a motion picture, television, video, theatrical,
30 or other entertainment production or event.

31 (2) The delivery of an unloaded firearm by a dealer to a
32 gunsmith for service or repair.

33 (3) Until January 1, 2013, the sale, delivery, or transfer of an
34 unloaded firearm, other than a handgun, by a dealer to another
35 dealer, upon proof of compliance with the requirements of Section
36 27555.

37 (4) The sale, delivery, or transfer of an unloaded firearm by a
38 dealer who sells, delivers, or transfers the firearm to a person who
39 resides outside this state and is licensed pursuant to Chapter 44

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

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

7 (6) The sale, delivery, or transfer of an unloaded firearm by a
8 dealer to another dealer, upon proof of compliance with the
9 requirements of Section 27555, if the firearm is intended as
10 merchandise in the receiving dealer's business.

11 (7) Until January 1, 2013, the sale, delivery, or transfer of an
12 unloaded firearm, other than a handgun, by a dealer to himself or
13 herself.

14 (8) The loan of an unloaded firearm by a dealer who also
15 operates a target facility which holds a business or regulatory
16 license on the premises of the building designated in the license
17 or whose building designated in the license is on the premises of
18 any club or organization organized for the purpose of practicing
19 shooting at targets upon established ranges, whether public or
20 private, to a person at that target facility or club or organization,
21 if the firearm is kept at all times within the premises of the target
22 range or on the premises of the club or organization.

23 (9) 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 (10) The return of an unloaded firearm to the owner of that
28 firearm by a dealer, if the owner initially delivered the firearm to
29 the dealer for service or repair.

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

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

35 SEC. 49. Section 28160 of the Penal Code is amended to read:

36 28160. (a) Until January 1, 2013, for handguns, and thereafter
37 for all firearms, the register or record of electronic transfer shall
38 include all of the following information:

39 (1) The date and time of sale.

40 (2) The make of firearm.

- 1 (3) Peace officer exemption status pursuant to the provisions
- 2 listed in subdivision (c) of Section 16585, and the agency name.
- 3 (4) Auction or event waiting period exemption pursuant to
- 4 Sections 26955 and 27655.
- 5 (5) Dealer waiting period exemption pursuant to Sections 26960
- 6 and 27660.
- 7 (6) Dangerous weapons permitholder waiting period exemption
- 8 pursuant to Sections 26965 and 27665.
- 9 (7) Curio and relic waiting period exemption pursuant to
- 10 Sections 26970 and 27670.
- 11 (8) California Firearms Dealer number issued pursuant to Article
- 12 1 (commencing with Section 26700) of Chapter 2.
- 13 (9) For transactions occurring on or after January 1, 2003, the
- 14 purchaser's handgun safety certificate number issued pursuant to
- 15 Article 2 (commencing with Section 31610) of Chapter 4 of
- 16 Division 10 of this title, or pursuant to former Article 8
- 17 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
- 18 4, as that article read at any time from when it became operative
- 19 on January 1, 2003, to when it was repealed by the Deadly
- 20 Weapons Recodification Act of 2010.
- 21 (10) Manufacturer's name if stamped on the firearm.
- 22 (11) Model name or number, if stamped on the firearm.
- 23 (12) Serial number, if applicable.
- 24 (13) Other number, if more than one serial number is stamped
- 25 on the firearm.
- 26 (14) Any identification number or mark assigned to the firearm
- 27 pursuant to Section 23910.
- 28 (15) If the firearm is not a handgun and does not have a serial
- 29 number, identification number, or mark assigned to it, a notation
- 30 as to that fact.
- 31 (16) Caliber.
- 32 (17) Type of firearm.
- 33 (18) If the firearm is new or used.
- 34 (19) Barrel length.
- 35 (20) Color of the firearm.
- 36 (21) Full name of purchaser.
- 37 (22) Purchaser's complete date of birth.
- 38 (23) Purchaser's local address.
- 39 (24) If current address is temporary, complete permanent address
- 40 of purchaser.

- 1 (25) Identification of purchaser.
- 2 (26) Purchaser's place of birth (state or country).
- 3 (27) Purchaser's complete telephone number.
- 4 (28) Purchaser's occupation.
- 5 (29) Purchaser's sex.
- 6 (30) Purchaser's physical description.
- 7 (31) All legal names and aliases ever used by the purchaser.
- 8 (32) Yes or no answer to questions that prohibit purchase,
- 9 including, but not limited to, conviction of a felony as described
- 10 in Chapter 2 (commencing with Section 29800) or an offense
- 11 described in Chapter 3 (commencing with Section 29900) of
- 12 Division 9 of this title, the purchaser's status as a person described
- 13 in Section 8100 of the Welfare and Institutions Code, whether the
- 14 purchaser is a person who has been adjudicated by a court to be a
- 15 danger to others or found not guilty by reason of insanity, and
- 16 whether the purchaser is a person who has been found incompetent
- 17 to stand trial or placed under conservatorship by a court pursuant
- 18 to Section 8103 of the Welfare and Institutions Code.
- 19 (33) Signature of purchaser.
- 20 (34) Signature of salesperson, as a witness to the purchaser's
- 21 signature.
- 22 (35) Salesperson's certificate of eligibility number, if the
- 23 salesperson has obtained a certificate of eligibility.
- 24 (36) Name and complete address of the dealer or firm selling
- 25 the firearm as shown on the dealer's license.
- 26 (37) The establishment number, if assigned.
- 27 (38) The dealer's complete business telephone number.
- 28 (39) Any information required by Chapter 5 (commencing with
- 29 Section 28050).
- 30 (40) Any information required to determine whether subdivision
- 31 (f) of Section 27540 applies.
- 32 (41) A statement of the penalties for signing a fictitious name
- 33 or address, knowingly furnishing any incorrect information, or
- 34 knowingly omitting any information required to be provided for
- 35 the register.
- 36 (b) The purchaser shall provide the purchaser's right thumbprint
- 37 on the register in a manner prescribed by the department. No
- 38 exception to this requirement shall be permitted except by
- 39 regulations adopted by the department.

- 1 (c) The firearms dealer shall record on the register or record of
2 electronic transfer the date that the firearm is delivered.
- 3 SEC. 50. Section 28165 of the Penal Code is amended to read:
4 28165. (a) For firearms other than handguns, the register or
5 record of electronic transfer shall include all of the following
6 information:
- 7 (1) The date and time of sale.
 - 8 (2) Peace officer exemption status pursuant to the provisions
9 listed in subdivision (c) of Section 16585, and the agency name.
 - 10 (3) Dangerous weapons permitholder waiting period exemption
11 pursuant to Sections 26965 and 27665.
 - 12 (4) Curio and relic waiting period exemption pursuant to
13 Sections 26970 and 27670.
 - 14 (5) Auction or event waiting period exemption pursuant to
15 Sections 26955 and 27655.
 - 16 (6) California Firearms Dealer number issued pursuant to Article
17 1 (commencing with Section 26700) of Chapter 2.
 - 18 (7) Full name of purchaser.
 - 19 (8) Purchaser's complete date of birth.
 - 20 (9) Purchaser's local address.
 - 21 (10) If current address is temporary, complete permanent address
22 of purchaser.
 - 23 (11) Identification of purchaser.
 - 24 (12) Purchaser's place of birth (state or country).
 - 25 (13) Purchaser's complete telephone number.
 - 26 (14) Purchaser's occupation.
 - 27 (15) Purchaser's sex.
 - 28 (16) Purchaser's physical description.
 - 29 (17) All legal names and aliases ever used by the purchaser.
 - 30 (18) Yes or no answer to questions that prohibit purchase,
31 including, but not limited to, conviction of a felony as described
32 in Chapter 2 (commencing with Section 29800) or an offense
33 described in Chapter 3 (commencing with Section 29900) of
34 Division 9 of this title, the purchaser's status as a person described
35 in Section 8100 of the Welfare and Institutions Code, whether the
36 purchaser is a person who has been adjudicated by a court to be a
37 danger to others or found not guilty by reason of insanity, whether
38 the purchaser is a person who has been found incompetent to stand
39 trial or placed under conservatorship by a court pursuant to Section
40 8103 of the Welfare and Institutions Code.

1 (19) Signature of purchaser.

2 (20) Signature of salesperson, as a witness to the purchaser's
3 signature.

4 (21) Salesperson's certificate of eligibility number, if the
5 salesperson has obtained a certificate of eligibility.

6 (22) Name and complete address of the dealer or firm selling
7 the firearm as shown on the dealer's license.

8 (23) The establishment number, if assigned.

9 (24) The dealer's complete business telephone number.

10 (25) Any information required by Chapter 5 (commencing with
11 Section 28050).

12 (26) A statement of the penalties for any person signing a
13 fictitious name or address, knowingly furnishing any incorrect
14 information, or knowingly omitting any information required to
15 be provided for the register.

16 (b) The purchaser shall provide the purchaser's right thumbprint
17 on the register in a manner prescribed by the department. No
18 exception to this requirement shall be permitted except by
19 regulations adopted by the department.

20 (c) The firearms dealer shall record on the register or record of
21 electronic transfer the date that the firearm is delivered.

22 (d) This section shall remain in effect only until January 1, 2013,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2013, deletes or extends that date.

25 SEC. 51. Section 28170 of the Penal Code is amended to read:

26 28170. Where the register is used, the following shall apply:

27 (a) Dealers shall use ink to complete each document.

28 (b) The dealer or salesperson making a sale shall ensure that all
29 information is provided legibly. The dealer and salespersons shall
30 be informed that incomplete or illegible information will delay
31 sales.

32 (c) Each dealer shall be provided instructions regarding the
33 procedure for completion of the form and routing of the form.
34 Dealers shall comply with these instructions, which shall include
35 the information set forth in this section.

36 (d) One firearm transaction shall be reported on each record of
37 sale document.

38 SEC. 52. Section 28180 of the Penal Code is amended to read:

39 28180. (a) The purchaser's name, date of birth, and driver's
40 license or identification number shall be obtained electronically

1 from the magnetic strip on the purchaser's driver's license or
2 identification and shall not be supplied by any other means, except
3 as authorized by the department.

4 (b) The requirement of subdivision (a) shall not apply in either
5 of the following cases:

6 (1) The purchaser's identification consists of a military
7 identification card.

8 (2) Due to technical limitations, the magnetic strip reader is
9 unable to obtain the required information from the purchaser's
10 identification. In those circumstances, the firearms dealer shall
11 obtain a photocopy of the identification as proof of compliance.

12 (c) In the event that the dealer has reported to the department
13 that the dealer's equipment has failed, information pursuant to this
14 section shall be obtained by an alternative method to be determined
15 by the department.

16 SEC. 53. Section 28210 of the Penal Code is amended to read:

17 28210. (a) (1) Where the register is used, the purchaser of
18 any firearm shall be required to present to the dealer clear evidence
19 of the person's identity and age.

20 (2) The dealer shall require the purchaser to sign the purchaser's
21 current legal name and affix the purchaser's residence address and
22 date of birth to the register in quadruplicate.

23 (3) The salesperson shall sign the register in quadruplicate, as
24 a witness to the signature and identification of the purchaser.

25 (b) Any person furnishing a fictitious name or address,
26 knowingly furnishing any incorrect information, or knowingly
27 omitting any information required to be provided for the register
28 shall be punished as provided in Section 28250.

29 (c) (1) The original of the register shall be retained by the dealer
30 in consecutive order.

31 (2) Each book of 50 originals shall become the permanent
32 register of transactions, which shall be retained for not less than
33 three years from the date of the last transaction.

34 (3) Upon presentation of proper identification, the permanent
35 register of transactions shall be available for inspection by any
36 peace officer, Department of Justice employee designated by the
37 Attorney General, or agent of the federal Bureau of Alcohol,
38 Tobacco, Firearms and Explosives. Until January 1, 2013, no
39 information shall be compiled therefrom regarding the purchasers
40 or other transferees of firearms that are not handguns.

1 (d) On the date of the application to purchase, two copies of the
2 original sheet of the register shall be placed in the mail, postage
3 prepaid, and properly addressed to the Department of Justice.

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

6 (f) If the transaction is a private party transfer conducted
7 pursuant to Chapter 5 (commencing with Section 28050), a
8 photocopy of the original shall be provided to the seller or
9 purchaser by the dealer, upon request. The dealer shall redact all
10 of the purchaser's personal information, as required pursuant to
11 subdivision (a) of Section 28160 and subdivision (a) of Section
12 28165, from the seller's copy, and the seller's personal information
13 from the purchaser's copy.

14 SEC. 54. Section 28215 of the Penal Code is amended to read:

15 28215. (a) (1) Where the electronic or telephonic transfer of
16 applicant information is used, the purchaser shall be required to
17 present to the dealer clear evidence of the person's identity and
18 age.

19 (2) The dealer shall require the purchaser to sign the purchaser's
20 current legal name to the record of electronic or telephonic transfer.

21 (3) The salesperson shall sign the record of electronic or
22 telephonic transfer, as a witness to the signature and identification
23 of the purchaser.

24 (b) Any person furnishing a fictitious name or address,
25 knowingly furnishing any incorrect information, or knowingly
26 omitting any information required to be provided for the electronic
27 or telephonic transfer shall be punished as provided in Section
28 28250.

29 (c) (1) The original of each record of electronic or telephonic
30 transfer shall be retained by the dealer in consecutive order.

31 (2) Each original shall become the permanent record of the
32 transaction, which shall be retained for not less than three years
33 from the date of the last transaction.

34 (3) Upon presentation of proper identification, the permanent
35 record of the transaction shall be provided for inspection by any
36 peace officer, Department of Justice employee designated by the
37 Attorney General, or agent of the federal Bureau of Alcohol,
38 Tobacco, Firearms and Explosives. Until January 1, 2013, no
39 information shall be compiled therefrom regarding the purchasers
40 or other transferees of firearms that are not handguns.

1 (d) On the date of the application to purchase, the record of
2 applicant information shall be transmitted to the Department of
3 Justice by electronic or telephonic transfer.

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

6 (f) If the transaction is a private party transfer conducted
7 pursuant to Chapter 5 (commencing with Section 28050), a copy
8 shall be provided to the seller or purchaser by the dealer, upon
9 request. The dealer shall redact all of the purchaser's personal
10 information, as required pursuant to subdivision (a) of Section
11 28160 and subdivision (a) of Section 28165, from the seller's copy,
12 and the seller's personal information from the purchaser's copy.

13 SEC. 55. Section 28220 of the Penal Code is amended to read:

14 28220. (a) Upon submission of firearm purchaser information,
15 the Department of Justice shall examine its records, as well as
16 those records that it is authorized to request from the State
17 Department of Mental Health pursuant to Section 8104 of the
18 Welfare and Institutions Code, in order to determine if the
19 purchaser is a person described in subdivision (a) of Section 27535,
20 or is prohibited by state or federal law from possessing, receiving,
21 owning, or purchasing a firearm.

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

32 (c) If the department determines that the purchaser is prohibited
33 by state or federal law from possessing, receiving, owning, or
34 purchasing a firearm or is a person described in subdivision (a) of
35 Section 27535, it shall immediately notify the dealer and the chief
36 of the police department of the city or city and county in which
37 the sale was made, or if the sale was made in a district in which
38 there is no municipal police department, the sheriff of the county
39 in which the sale was made, of that fact.

1 (d) If the department determines that the copies of the register
2 submitted to it pursuant to subdivision (d) of Section 28210 contain
3 any blank spaces or inaccurate, illegible, or incomplete information,
4 preventing identification of the purchaser or the handgun or other
5 firearm to be purchased, or if any fee required pursuant to Section
6 28225 is not submitted by the dealer in conjunction with
7 submission of copies of the register, the department may notify
8 the dealer of that fact. Upon notification by the department, the
9 dealer shall submit corrected copies of the register to the
10 department, or shall submit any fee required pursuant to Section
11 28225, or both, as appropriate and, if notification by the department
12 is received by the dealer at any time prior to delivery of the firearm
13 to be purchased, the dealer shall withhold delivery until the
14 conclusion of the waiting period described in Sections 26815 and
15 27540.

16 (e) If the department determines that the information transmitted
17 to it pursuant to Section 28215 contains inaccurate or incomplete
18 information preventing identification of the purchaser or the
19 handgun or other firearm to be purchased, or if the fee required
20 pursuant to Section 28225 is not transmitted by the dealer in
21 conjunction with transmission of the electronic or telephonic
22 record, the department may notify the dealer of that fact. Upon
23 notification by the department, the dealer shall transmit corrections
24 to the record of electronic or telephonic transfer to the department,
25 or shall transmit any fee required pursuant to Section 28225, or
26 both, as appropriate, and if notification by the department is
27 received by the dealer at any time prior to delivery of the firearm
28 to be purchased, the dealer shall withhold delivery until the
29 conclusion of the waiting period described in Sections 26815 and
30 27540.

31 SEC. 56. Section 28230 of the Penal Code is amended to read:

32 28230. (a) The Department of Justice may charge a fee
33 sufficient to reimburse it for each of the following but not to exceed
34 fourteen dollars (\$14), except that the fee may be increased at a
35 rate not to exceed any increase in the California Consumer Price
36 Index as compiled and reported by the Department of Industrial
37 Relations:

38 (1) For the actual costs associated with the preparation, sale,
39 processing, and filing of forms or reports required or utilized
40 pursuant to any provision listed in subdivision (a) of Section 16585.

1 (2) For the actual processing costs associated with the
2 submission of a Dealers' Record of Sale to the department.

3 (3) For the actual costs associated with the preparation, sale,
4 processing, and filing of reports utilized pursuant to Section 26905,
5 27565, 27966, or 28000, or paragraph (1) of subdivision (a) of
6 Section 27560.

7 (4) For the actual costs associated with the electronic or
8 telephonic transfer of information pursuant to Section 28215.

9 (b) If the department charges a fee pursuant to paragraph (2) of
10 subdivision (a), it shall be charged in the same amount to all
11 categories of transaction that are within that paragraph.

12 (c) Any costs incurred by the Department of Justice to
13 implement this section shall be reimbursed from fees collected
14 and charged pursuant to this section. No fees shall be charged to
15 the dealer pursuant to Section 28225 for implementing this section.

16 SEC. 57. Section 28240 of the Penal Code is amended to read:

17 28240. (a) Until January 1, 2013, only one fee shall be charged
18 pursuant to this article for a single transaction on the same date
19 for the sale of any number of firearms that are not handguns, or
20 for the taking of possession of those firearms.

21 (b) In a single transaction on the same date for the delivery of
22 any number of firearms that are handguns, and commencing
23 January 1, 2013, for any firearm, the department shall charge a
24 reduced fee pursuant to this article for the second and subsequent
25 firearms that are part of that transaction.

26 (c) Only one fee shall be charged pursuant to this article for a
27 single transaction on the same date for taking title or possession
28 of any number of firearms pursuant to Section 26905, 27870,
29 27875, 27915, 27920, or 27925.

30 SEC. 58. Section 28245 of the Penal Code is amended to read:

31 28245. Whenever the Department of Justice acts pursuant to
32 this article as it pertains to firearms other than handguns, the
33 department's acts or omissions shall be deemed to be discretionary
34 within the meaning of the California Tort Claims Act pursuant to
35 Division 3.6 (commencing with Section 810) of Title 1 of the
36 Government Code.

37 SEC. 59. Section 28400 of the Penal Code is amended to read:

38 28400. (a) Article 1 (commencing with Section 28100), Article
39 2 (commencing with Section 28150), Article 3 (commencing with
40 Section 28200), and Article 4 (commencing with Section 28300)

1 do not apply to any sale, delivery, or transfer of firearms made to
2 an authorized law enforcement representative of any city, county,
3 city and county, or state, or of the federal government, for exclusive
4 use by that governmental agency if, prior to the sale, delivery, or
5 transfer of these firearms, written authorization from the head of
6 the agency authorizing the transaction is presented to the person
7 from whom the purchase, delivery, or transfer is being made.

8 (b) Proper written authorization is defined as verifiable written
9 certification from the head of the agency by which the purchaser
10 or transferee is employed, identifying the employee as an individual
11 authorized to conduct the transaction, and authorizing the
12 transaction for the exclusive use of the agency by which that person
13 is employed.

14 (c) Within 10 days of the date a handgun, and commencing
15 January 1, 2013, any firearm, is acquired by the agency, a record
16 of the same shall be entered as an institutional weapon into the
17 Automated Firearms System (AFS) via the California Law
18 Enforcement Telecommunications System (CLETS) by the law
19 enforcement or state agency. Any agency without access to AFS
20 shall arrange with the sheriff of the county in which the agency is
21 located to input this information via this system.

22 SEC. 60. Section 28410 of the Penal Code is amended to read:

23 28410. (a) Article 1 (commencing with Section 28100), Article
24 2 (commencing with Section 28150), Article 3 (commencing with
25 Section 28200), and Article 4 (commencing with Section 28300)
26 do not apply to the sale, delivery, or transfer of a firearm by a law
27 enforcement agency to a peace officer pursuant to Section 10334
28 of the Public Contract Code.

29 (b) Within 10 days of the date that a handgun, and commencing
30 January 1, 2013, any firearm, is sold, delivered, or transferred
31 pursuant to Section 10334 of the Public Contract Code to that
32 peace officer, the name of the officer and the make, model, serial
33 number, and other identifying characteristics of the firearm being
34 sold, delivered, or transferred shall be entered into the Automated
35 Firearms System (AFS) via the California Law Enforcement
36 Telecommunications System (CLETS) by the law enforcement or
37 state agency that sold, delivered, or transferred the firearm,
38 provided, however, that if the firearm is not a handgun and does
39 not have a serial number, identification number, or identification
40 mark assigned to it, that fact shall be noted in AFS. Any agency

1 without access to AFS shall arrange with the sheriff of the county
2 in which the agency is located to input this information via this
3 system.

4 SEC. 61. Section 28415 of the Penal Code is amended to read:

5 28415. (a) Article 1 (commencing with Section 28100), Article
6 2 (commencing with Section 28150), Article 3 (commencing with
7 Section 28200), and Article 4 (commencing with Section 28300)
8 do not apply to the sale, delivery, or transfer of a firearm by a law
9 enforcement agency to a retiring peace officer who is authorized
10 to carry a firearm pursuant to Chapter 5 (commencing with Section
11 26300) of Division 5.

12 (b) Within 10 days of the date that a handgun, and commencing
13 January 1, 2013, any firearm, is sold, delivered, or transferred to
14 that retiring peace officer, the name of the officer and the make,
15 model, serial number, and other identifying characteristics of the
16 firearm being sold, delivered, or transferred shall be entered into
17 the Automated Firearms System (AFS) via the California Law
18 Enforcement Telecommunications System (CLETS) by the law
19 enforcement or state agency that sold, delivered, or transferred the
20 firearm, provided, however, that if the firearm is not a handgun
21 and does not have a serial number, identification number, or
22 identification mark assigned to it, that fact shall be noted in AFS.
23 Any agency without access to AFS shall arrange with the sheriff
24 of the county in which the agency is located to input this
25 information via this system.

26 SEC. 62. Section 30105 of the Penal Code is amended to read:

27 30105. (a) An individual may request that the Department of
28 Justice perform a firearms eligibility check for that individual. The
29 applicant requesting the eligibility check shall provide the personal
30 information required by Section 28160 or 28165, as applicable,
31 but not any information regarding any firearm, to the department,
32 in an application specified by the department.

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

1 (c) An applicant for the eligibility check pursuant to subdivision
2 (a) shall complete the application, have it notarized by any licensed
3 California Notary Public, and submit it by mail to the department.

4 (d) Upon receipt of a notarized application and fee, the
5 department shall do all of the following:

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

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

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

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

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

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

32 (i) The department shall include on the application specified in
33 subdivision (a) and the notification of eligibility specified in
34 subdivision (d) the following statements:

35
36 "No person or agency may require or request another person to
37 obtain a firearms eligibility check or notification of firearms
38 eligibility check pursuant to Section 30105 of the Penal Code. A
39 violation of these provisions is a misdemeanor."
40

1 “If the applicant for a firearms eligibility check purchases,
2 transfers, or receives a firearm through a licensed dealer as required
3 by law, a waiting period and background check are both required.”
4

5 SEC. 63. Section 30150 of the Penal Code is amended to read:

6 30150. (a) Section 30105 does not apply to any sale, delivery,
7 or transfer of firearms made to an authorized law enforcement
8 representative of any city, county, city and county, or state, or of
9 the federal government, for exclusive use by that governmental
10 agency if, prior to the sale, delivery, or transfer of these firearms,
11 written authorization from the head of the agency authorizing the
12 transaction is presented to the person from whom the purchase,
13 delivery, or transfer is being made.

14 (b) Proper written authorization is defined as verifiable written
15 certification from the head of the agency by which the purchaser
16 or transferee is employed, identifying the employee as an individual
17 authorized to conduct the transaction, and authorizing the
18 transaction for the exclusive use of the agency by which that person
19 is employed.

20 (c) Within 10 days of the date a handgun, and commencing
21 January 1, 2013, any firearm, is acquired by the agency, a record
22 of the same shall be entered as an institutional weapon into the
23 Automated Firearms System (AFS) via the California Law
24 Enforcement Telecommunications System (CLETS) by the law
25 enforcement or state agency. Any agency without access to AFS
26 shall arrange with the sheriff of the county in which the agency is
27 located to input this information via this system.

28 SEC. 64. Section 30160 of the Penal Code is amended to read:

29 30160. (a) Section 30105 does not apply to the sale, delivery,
30 or transfer of a firearm by a law enforcement agency to a peace
31 officer pursuant to Section 10334 of the Public Contract Code.

32 (b) Within 10 days of the date that a handgun, and commencing
33 January 1, 2013, any firearm, is sold, delivered, or transferred
34 pursuant to Section 10334 of the Public Contract Code to that
35 peace officer, the name of the officer and the make, model, serial
36 number, and other identifying characteristics of the firearm being
37 sold, delivered, or transferred shall be entered into the Automated
38 Firearms System (AFS) via the California Law Enforcement
39 Telecommunications System (CLETS) by the law enforcement or
40 state agency that sold, delivered, or transferred the firearm,

1 provided, however, that if the firearm is not a handgun and does
2 not have a serial number, identification number, or identification
3 mark assigned to it, that fact shall be noted in AFS. Any agency
4 without access to AFS shall arrange with the sheriff of the county
5 in which the agency is located to input this information via this
6 system.

7 SEC. 65. Section 30165 of the Penal Code is amended to read:

8 30165. (a) Section 30105 does not apply to the sale, delivery,
9 or transfer of a firearm by a law enforcement agency to a retiring
10 peace officer who is authorized to carry a firearm pursuant to
11 Chapter 5 (commencing with Section 26300) of Division 5.

12 (b) Within 10 days of the date that a handgun, and commencing
13 January 1, 2013, any firearm, is sold, delivered, or transferred to
14 that retiring peace officer, the name of the officer and the make,
15 model, serial number, and other identifying characteristics of the
16 firearm being sold, delivered, or transferred shall be entered into
17 the Automated Firearms System (AFS) via the California Law
18 Enforcement Telecommunications System (CLETS) by the law
19 enforcement or state agency that sold, delivered, or transferred the
20 firearm, provided, however, that if the firearm is not a handgun
21 and does not have a serial number, identification number, or
22 identification mark assigned to it, that fact shall be noted in AFS.
23 Any agency without access to AFS shall arrange with the sheriff
24 of the county in which the agency is located to input this
25 information via this system.

26 SEC. 66. Section 31705 of the Penal Code is amended to read:

27 31705. (a) Subdivision (a) of Section 31615 does not apply
28 to any sale, delivery, or transfer of firearms made to an authorized
29 law enforcement representative of any city, county, city and county,
30 or state, or of the federal government, for exclusive use by that
31 governmental agency if, prior to the sale, delivery, or transfer of
32 these firearms, written authorization from the head of the agency
33 authorizing the transaction is presented to the person from whom
34 the purchase, delivery, or transfer is being made.

35 (b) Proper written authorization is defined as verifiable written
36 certification from the head of the agency by which the purchaser
37 or transferee is employed, identifying the employee as an individual
38 authorized to conduct the transaction, and authorizing the
39 transaction for the exclusive use of the agency by which that person
40 is employed.

1 (c) Within 10 days of the date a handgun, and commencing
2 January 1, 2013, any firearm, is acquired by the agency, a record
3 of the same shall be entered as an institutional weapon into the
4 Automated Firearms System (AFS) via the California Law
5 Enforcement Telecommunications System (CLETS) by the law
6 enforcement or state agency. Any agency without access to AFS
7 shall arrange with the sheriff of the county in which the agency is
8 located to input this information via this system.

9 SEC. 67. Section 31715 of the Penal Code is amended to read:
10 31715. (a) Subdivision (a) of Section 31615 does not apply
11 to the sale, delivery, or transfer of a firearm by a law enforcement
12 agency to a peace officer pursuant to Section 10334 of the Public
13 Contract Code.

14 (b) Within 10 days of the date that a handgun, and commencing
15 January 1, 2013, any firearm, is sold, delivered, or transferred
16 pursuant to Section 10334 of the Public Contract Code to that
17 peace officer, the name of the officer and the make, model, serial
18 number, and other identifying characteristics of the firearm being
19 sold, delivered, or transferred shall be entered into the Automated
20 Firearms System (AFS) via the California Law Enforcement
21 Telecommunications System (CLETS) by the law enforcement or
22 state agency that sold, delivered, or transferred the firearm,
23 provided, however, that if the firearm is not a handgun and does
24 not have a serial number, identification number, or identification
25 mark assigned to it, that fact shall be noted in AFS. Any agency
26 without access to AFS shall arrange with the sheriff of the county
27 in which the agency is located to input this information via this
28 system.

29 SEC. 68. Section 31720 of the Penal Code is amended to read:
30 31720. (a) Subdivision (a) of Section 31615 does not apply
31 to the sale, delivery, or transfer of a firearm by a law enforcement
32 agency to a retiring peace officer who is authorized to carry a
33 firearm pursuant to Chapter 5 (commencing with Section 26300)
34 of Division 5.

35 (b) Within 10 days of the date that a handgun, and commencing
36 January 1, 2013, any firearm, is sold, delivered, or transferred to
37 that retiring peace officer, the name of the officer and the make,
38 model, serial number, and other identifying characteristics of the
39 firearm being sold, delivered, or transferred shall be entered into
40 the Automated Firearms System (AFS) via the California Law

1 Enforcement Telecommunications System (CLETS) by the law
2 enforcement or state agency that sold, delivered, or transferred the
3 firearm, provided, however, that if the firearm is not a handgun
4 and does not have a serial number, identification number, or
5 identification mark assigned to it, that fact shall be noted in AFS.
6 Any agency without access to AFS shall arrange with the sheriff
7 of the county in which the agency is located to input this
8 information via this system.

9 SEC. 69. Section 31735 of the Penal Code is amended to read:

10 31735. Subdivision (a) of Section 31615 does not apply to the
11 sale, delivery, loan, or transfer of a firearm made by any person
12 other than a representative of an authorized law enforcement
13 agency to any public or private nonprofit historical society,
14 museum, or institutional collection, if all of the following
15 conditions are met:

16 (a) The entity receiving the firearm is open to the public.

17 (b) The firearm is deactivated or rendered inoperable prior to
18 delivery.

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

21 (d) Prior to delivery, the entity receiving the firearm submits a
22 written statement to the person selling, loaning, or transferring the
23 firearm stating that the firearm will not be restored to operating
24 condition, and will either remain with that entity, or if subsequently
25 disposed of, will be transferred in accordance with the applicable
26 provisions listed in Section 16575 and, if applicable, with Section
27 31615.

28 (e) If title to a handgun, and commencing January 1, 2013, 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 entity shall, within 30 days of
32 taking possession of that firearm, forward by prepaid mail or
33 deliver in person to the Department of Justice, a single report
34 signed by both parties to the transaction, which includes all of the
35 following information:

36 (1) Information identifying the person representing the public
37 or private historical society, museum, or institutional collection.

38 (2) Information on how title was obtained and from whom.

39 (3) A description of the firearm in question.

1 (4) A copy of the written statement referred to in subdivision
2 (d).

3 (f) The report forms that are to be completed pursuant to this
4 section shall be provided by the Department of Justice.

5 (g) In the event of a change in the status of the designated
6 representative, the entity shall notify the department of a new
7 representative within 30 days.

8 SEC. 70. Section 31775 of the Penal Code is amended to read:
9 31775. Subdivision (a) of Section 31615 does not apply to the
10 sale, delivery, or transfer of firearms if all of the following
11 conditions are satisfied:

- 12 (a) The firearms are unloaded.
- 13 (b) The firearms are not handguns.
- 14 (c) The sale, delivery, or transfer is made by a dealer to another
15 dealer, upon proof of compliance with the requirements of Section
16 27555.

17 (d) This section shall remain in effect only until January 1, 2013,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2013, deletes or extends that date.

20 SEC. 71. Section 31795 of the Penal Code is amended to read:
21 31795. (a) Subdivision (a) of Section 31615 does not apply
22 to the sale, delivery, or transfer of an unloaded firearm, other than
23 a handgun, by a dealer to himself or herself.

24 (b) This section shall remain in effect only until January 1, 2013,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2013, deletes or extends that date.

27 SEC. 72. Section 33850 of the Penal Code is amended to read:
28 33850. (a) Any person who claims title to any firearm that is
29 in the custody or control of a court or law enforcement agency and
30 who wishes to have the firearm returned shall make application
31 for a determination by the Department of Justice as to whether the
32 applicant is eligible to possess a firearm. The application shall
33 include the following:

- 34 (1) The applicant’s name, date and place of birth, gender,
35 telephone number, and complete address.
- 36 (2) Whether the applicant is a United States citizen. If the
37 applicant is not a United States citizen, the application shall also
38 include the applicant’s country of citizenship and the applicant’s
39 alien registration or I-94 number.

1 (3) If the firearm is a handgun, and commencing January 1,
2 2013, any firearm, the firearm's make, model, caliber, barrel length,
3 handgun type, country of origin, and serial number, provided,
4 however, that if the firearm is not a handgun and does not have a
5 serial number, identification number, or identification mark
6 assigned to it, there shall be a place on the application to note that
7 fact.

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

18 (5) The name of the court or law enforcement agency holding
19 the firearm.

20 (6) The signature of the applicant and the date of signature.

21 (7) Any person furnishing a fictitious name or address or
22 knowingly furnishing any incorrect information or knowingly
23 omitting any information required to be provided for the
24 application, including any notarized information pursuant to
25 paragraph (4), shall be guilty of a misdemeanor.

26 (b) A person who owns a firearm that is in the custody of a court
27 or law enforcement agency and who does not wish to obtain
28 possession of the firearm, and the firearm is an otherwise legal
29 firearm, and the person otherwise has right to title of the firearm,
30 shall be entitled to sell or transfer title of the firearm to a licensed
31 dealer.

32 (c) Any person furnishing a fictitious name or address, or
33 knowingly furnishing any incorrect information or knowingly
34 omitting any information required to be provided for the
35 application, including any notarized information pursuant to
36 paragraph (4) of subdivision (a), is punishable as a misdemeanor.

37 SEC. 73. Section 33860 of the Penal Code is amended to read:

38 33860. (a) The Department of Justice shall establish a fee of
39 twenty dollars (\$20) per request for return of a firearm, plus a
40 three-dollar (\$3) charge for each additional firearm being processed

1 as part of the request to return a firearm, to cover its costs for
2 processing firearm clearance determinations submitted pursuant
3 to this chapter.

4 (b) The fees collected pursuant to subdivision (a) shall be
5 deposited into the Dealers' Record of Sale Special Account.

6 (c) The department may increase the fee by using the California
7 Consumer Price Index as compiled and reported by the California
8 Department of Industrial Relations to determine an annual rate of
9 increase. Any fee increase shall be rounded to the nearest dollar.

10 SEC. 74. Section 33865 of the Penal Code is amended to read:

11 33865. (a) When the Department of Justice receives a
12 completed application pursuant to Section 33850 accompanied by
13 the fee required pursuant to Section 33860, it shall conduct an
14 eligibility check of the applicant to determine whether the applicant
15 is eligible to possess a firearm.

16 (b) The department shall have 30 days from the date of receipt
17 to complete the background check, unless the background check
18 is delayed by circumstances beyond the control of the department.
19 The applicant may contact the department to inquire about the
20 reason for a delay.

21 (c) If the department determines that the applicant is eligible to
22 possess the firearm, the department shall provide the applicant
23 with written notification that includes the following:

24 (1) The identity of the applicant.

25 (2) A statement that the applicant is eligible to possess a firearm.

26 (3) A description of the firearm by make, model, and serial
27 number, provided, however, that if the firearm is not a handgun
28 and does not have a serial number, identification number, or
29 identification mark assigned to it, that fact shall be noted.

30 (d) If the firearm is a handgun, and commencing January 1,
31 2013, any firearm, the department shall enter a record of the firearm
32 into the Automated Firearms System (AFS), provided, however,
33 that if the firearm is not a handgun and does not have a serial
34 number, identification number, or identification mark assigned to
35 it, that fact shall be noted in AFS.

36 (e) If the department denies the application, and the firearm is
37 an otherwise legal firearm, the department shall notify the applicant
38 of the denial and provide a form for the applicant to use to sell or
39 transfer the firearm to a licensed dealer. The applicant may contact
40 the department to inquire about the reason for the denial.

1 SEC. 75. Section 33890 of the Penal Code is amended to read:
2 33890. (a) Notwithstanding Section 11106, the Department
3 of Justice may retain personal information about an applicant in
4 connection with a claim under this chapter for a firearm that is not
5 a handgun, to allow for law enforcement confirmation of
6 compliance with this chapter. The information retained may include
7 personal identifying information regarding the individual applying
8 for the clearance, but may not include information that identifies
9 any particular firearm that is not a handgun.

10 (b) This section shall remain in effect only until January 1, 2013,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before January 1, 2013, deletes or extends that date.

13 SEC. 76. Section 34355 of the Penal Code is amended to read:

14 34355. (a) Section 34350 does not apply to any sale, delivery,
15 or transfer of firearms made to an authorized law enforcement
16 representative of any city, county, city and county, or state, or of
17 the federal government, for exclusive use by that governmental
18 agency if, prior to the sale, delivery, or transfer of these firearms,
19 written authorization from the head of the agency authorizing the
20 transaction is presented to the person from whom the purchase,
21 delivery, or transfer is being made.

22 (b) Proper written authorization is defined as verifiable written
23 certification from the head of the agency by which the purchaser
24 or transferee is employed, identifying the employee as an individual
25 authorized to conduct the transaction, and authorizing the
26 transaction for the exclusive use of the agency by which that person
27 is employed.

28 (c) Within 10 days of the date a handgun, and commencing
29 January 1, 2013, any firearm, is acquired by the agency, a record
30 of the same shall be entered as an institutional weapon into the
31 Automated Firearms System (AFS) via the California Law
32 Enforcement Telecommunications System (CLETS) by the law
33 enforcement or state agency. Any agency without access to AFS
34 shall arrange with the sheriff of the county in which the agency is
35 located to input this information via this system.

36 SEC. 77. Section 34365 of the Penal Code is amended to read:

37 34365. (a) Section 34350 does not apply to the sale, delivery,
38 or transfer of a firearm by a law enforcement agency to a peace
39 officer pursuant to Section 10334 of the Public Contract Code.

1 (b) Within 10 days of the date that a handgun, and commencing
2 January 1, 2013, any firearm, is sold, delivered, or transferred
3 pursuant to Section 10334 of the Public Contract Code to that
4 peace officer, the name of the officer and the make, model, serial
5 number, and other identifying characteristics of the firearm being
6 sold, delivered, or transferred shall be entered into the Automated
7 Firearms System (AFS) via the California Law Enforcement
8 Telecommunications System (CLETS) by the law enforcement or
9 state agency that sold, delivered, or transferred the firearm,
10 provided, however, that if the firearm is not a handgun and does
11 not have a serial number, identification number, or identification
12 mark assigned to it, that fact shall be noted in AFS. Any agency
13 without access to AFS shall arrange with the sheriff of the county
14 in which the agency is located to input this information via this
15 system.

16 SEC. 78. Section 34370 of the Penal Code is amended to read:

17 34370. (a) Section 34350 does not apply to the sale, delivery,
18 or transfer of a firearm by a law enforcement agency to a retiring
19 peace officer who is authorized to carry a firearm pursuant to
20 Chapter 5 (commencing with Section 26300) of Division 5.

21 (b) Within 10 days of the date that a handgun, and commencing
22 January 1, 2013, any firearm, is sold, delivered, or transferred to
23 that retiring peace officer, the name of the officer and the make,
24 model, serial number, and other identifying characteristics of the
25 firearm being sold, delivered, or transferred shall be entered into
26 the Automated Firearms System (AFS) via the California Law
27 Enforcement Telecommunications System (CLETS) by the law
28 enforcement or state agency that sold, delivered, or transferred the
29 firearm, provided, however, that if the firearm is not a handgun
30 and does not have a serial number, identification number, or
31 identification mark assigned to it, that fact shall be noted in AFS.
32 Any agency without access to AFS shall arrange with the sheriff
33 of the county in which the agency is located to input this
34 information via this system.

35 SEC. 79. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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