

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 12, 2016

SENATE BILL

No. 1332

Introduced by Senator Mendoza

February 19, 2016

An act to amend Sections 11106, 17060, 26600, 27050, 27600, 28300, and 31705 of, and to add Sections 27881 and 27882 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1332, as amended, Mendoza. Firearms.

Existing law requires the Attorney General to maintain a registry of all firearm owners consisting of the name, address, identification of, place of birth, complete telephone number, occupation, sex, description, and all legal names and aliases used by the owner of a particular firearm as listed on the Dealer's Record of Sale or other specified reports.

Existing law establishes the Firearms Safety and Enforcement Special Fund and makes the revenue deposited into that fund available for expenditure by the department upon appropriation by the Legislature for purposes relating to the regulation of firearms.

This bill would, commencing January 1, 2019, require the Department of Justice to modify its registration form so that both spouses or both domestic partners may register as the owners of the firearm and would require the department to maintain both names on the firearms registry. *The bill would additionally make the revenue in the Firearms Safety*

and Enforcement Special Fund available for the purpose of implementing this registration process.

Existing law also requires the Attorney General to maintain information regarding firearms from certain other reports pertaining to firearms transactions and authorizes specified officers, including peace officers, to disseminate information from specified reports if certain conditions are satisfied, including if the subject of the record has been arraigned for a crime.

This bill would additionally require the Attorney General to maintain the information supplied to the Department of Justice in certain forms submitted by persons who take possession of a firearm pursuant to a specified exception to the general requirement that firearms transactions be completed through a licensed firearms dealer and would authorize information in those forms to be disseminated pursuant to the above provisions.

Existing law requires the loan of a firearm to be conducted through a licensed firearms dealer. Existing law makes a violation of this requirement a crime.

The bill would create exceptions to the dealer requirement for a loan of a firearm that occurs at the individual receiving the firearm and lender's shared residence or private property and for a loan in which the firearm is being stored in the receiver's residence or in an enclosed structure on the receiver's private property, if certain criteria are met.

This bill would incorporate changes to Section 11106 of the Penal Code proposed by both this bill and AB 857, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Under current state procedures, the initial acquisition process
- 4 to acquire a firearm includes, among other requirements, a
- 5 background check, a firearm safety certificate, and, upon
- 6 completion of the process, registration of that firearm to that person
- 7 in the Centralized Registry as set forth in Section 11106 of the
- 8 Penal Code.

1 (2) The current background check and registration process
2 allows only one person to initially acquire and be the registered
3 owner of that firearm.

4 (3) The California Constitution provides that property owned
5 before marriage or acquired during marriage by gift, will, or
6 inheritance is separate property.

7 (4) Community property rights are protected through the Due
8 Process Clause and other clauses of the California Constitution.

9 (5) On July 20, 2015, the California Supreme Court in the case
10 In re Marriage of Davis (2015) 61 Cal.4th 846 confirmed that
11 Section 760 of the Family Code specifically allows property
12 acquired by the spouses during the marriage not to be treated as
13 community property where otherwise provided by statute.

14 (6) Allowing property acquired by spouses during the marriage
15 not to be treated as community property where otherwise provided
16 by statute was foreshadowed by the decision of the Court of
17 Appeals in Crosby v. H.L.C. Properties LTD (2014) 223
18 Cal.App.4th 597, 609, fn. 10.

19 (7) Under current law, a person who is licensed to carry a
20 handgun in public is licensed to carry a specific handgun, and in
21 many jurisdictions licensing authorities license both spouses to
22 carry the same handgun, but in other jurisdictions licenses to carry
23 will not be issued unless the handgun is first registered to the
24 applicant.

25 (8) Because carry license information is reported to the
26 Department of Justice and is required to be included in the
27 Centralized Registry, joint registration is occurring today, albeit
28 under the carry license system.

29 (9) Joint family firearm registration is expressly allowed for
30 assault weapons and .50 BMG rifles.

31 (10) Joint spousal firearm registration exists in Hawaii,
32 Maryland, and New York.

33 (11) Firearms initially constituting separate property may be
34 jointly registered to a spouse via the transmutation process and via
35 the operation of law procedures set forth in subdivision (g) of
36 Section 16990 and paragraph (2) of subdivision (a) of Section
37 27920 of the Penal Code, without being processed through a
38 state-licensed firearms dealer. The clear intent of those provisions
39 is to allow joint spousal registration via that process but not to
40 otherwise permit joint registration. The amendments to Section

1 11106 of the Penal Code made by the act that added this section,
2 insofar as relevant, are designed to effectuate that intent.

3 (12) Also via the operation of law process, separate property of
4 one spouse may be transmuted to another spouse as separate
5 property.

6 (13) Firearms brought into this state by new residents which
7 were acquired outside of this state by such persons when residents
8 of that other state are being allowed to be jointly registered in
9 effect to both spouses pursuant to the procedures set forth in
10 Section 27560 of the Penal Code, without being processed through
11 a state-licensed firearms dealer. The amendments made to Section
12 11106 of the Penal Code by the act that added this section, insofar
13 as relevant, are designed to allow that to continue if it is occurring
14 now.

15 (14) The Department of Justice, pursuant to Section 28000 of
16 the Penal Code, allows a person to deregister a firearm if certain
17 conditions are met, including, among other conditions, providing
18 the department with official documentation that the firearm has,
19 in fact, been disposed of. The amendments made to Section 11106
20 of the Penal Code by the act that added this section, insofar as
21 relevant, are designed to allow that to continue if it is occurring
22 now.

23 (15) The process of deregistering a firearm by filing a form
24 pursuant to Section 28000 of the Penal Code detailing the disposal
25 of a firearm because the firearm was transferred to another requires
26 submission to the department of a formal department-generated
27 document stating that the firearm was reregistered. If the
28 disposition form is not submitted pursuant to Section 28000 of the
29 Penal Code, then a firearm may in effect be technically listed as
30 being registered to both parties involved in the transfer.

31 (16) There are legitimate concerns that if joint firearm
32 registration is explicitly allowed by virtue of the amendments made
33 to Section 11106 of the Penal Code by the act that added this
34 section, it may create a number of issues regarding third-party
35 rights when the time comes to dispose of those jointly registered
36 firearms. Those concerns exist now as to jointly registered .50
37 BMG rifles and assault weapons.

38 (b) It is the intent of the Legislature, if joint firearm registration
39 does not occur pursuant to the amendments made to Section 11106
40 of the Penal Code by the act that added this section, to enact

1 legislation that will go into effect prior to January 1, 2019, to
2 implement an explicit joint firearm registration system in a
3 user-friendly manner that protects public safety and does not
4 complicate the disposition of firearms that are jointly registered.

5 (c) It is also the intent of the Legislature that the Department of
6 Justice make available on its Internet Web site, in an editable public
7 display format, the form referred to in Section 27882 of the Penal
8 Code.

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

10 11106. (a) (1) In order to assist in the investigation of crime,
11 the prosecution of civil actions by city attorneys pursuant to
12 paragraph (3) of subdivision (b), the arrest and prosecution of
13 criminals, and the recovery of lost, stolen, or found property, the
14 Attorney General shall keep and properly file a complete record
15 of all of the following:

16 (A) All copies of fingerprints.

17 (B) Copies of licenses to carry firearms issued pursuant to
18 Section 26150, 26155, 26170, or 26215.

19 (C) Information reported to the Department of Justice pursuant
20 to Section 26225, 27875, 27920, 27966, or 29830.

21 (D) Dealers' records of sales of firearms.

22 (E) Reports provided pursuant to Article 1 (commencing with
23 Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or
24 pursuant to any provision listed in subdivision (a) of Section 16585.

25 (F) Forms provided pursuant to Section 12084, as that section
26 read prior to being repealed on January 1, 2006.

27 (G) Reports provided pursuant to Article 1 (commencing with
28 Section 26700) and Article 2 (commencing with Section 26800)
29 of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers'
30 records of sales of firearms.

31 (H) Information provided pursuant to Section 28255.

32 (I) Reports of stolen, lost, found, pledged, or pawned property
33 in any city or county of this state.

34 (2) The Attorney General shall, upon proper application therefor,
35 furnish the information to the officers referred to in Section 11105.

36 (b) (1) The Attorney General shall permanently keep and
37 properly file and maintain all information reported to the
38 Department of Justice pursuant to the following provisions as to
39 firearms and maintain a registry thereof:

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

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

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

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

9 (E) Former Section 12084.

10 (F) Section 28255.

11 (G) Any other law.

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

13 (A) The name, address, identification of, place of birth (state
14 or country), complete telephone number, occupation, sex,
15 description, and all legal names and aliases ever used by the owner
16 or person being loaned the particular firearm as listed on the
17 information provided to the department on the Dealers' Record of
18 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
19 in former Section 12084, or reports made to the department
20 pursuant to any provision listed in subdivision (a) of Section 16585,
21 Section 28255, or any other law.

22 (B) The name and address of, and other information about, any
23 person (whether a dealer or a private party) from whom the owner
24 acquired or the person being loaned the particular firearm and
25 when the firearm was acquired or loaned as listed on the
26 information provided to the department on the Dealers' Record of
27 Sale, the LEFT, or reports made to the department pursuant to any
28 provision listed in subdivision (a) of Section 16585 or any other
29 law.

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

33 (D) The manufacturer's name if stamped on the firearm, model
34 name or number if stamped on the firearm, and, if applicable, the
35 serial number, other number (if more than one serial number is
36 stamped on the firearm), caliber, type of firearm, if the firearm is
37 new or used, barrel length, and color of the firearm, or, if the
38 firearm is not a handgun and does not have a serial number or any
39 identification number or mark assigned to it, that shall be noted.

1 (E) Commencing January 1, 2019, the name of the person and
2 his or her spouse or domestic partner if the firearm is registered
3 to both persons. The department shall modify its registration forms
4 to the extent necessary, if it has not already done so, so that both
5 spouses or both domestic partners may register as the owners of
6 the firearm. This subparagraph shall not require the department to
7 change the Dealer's Record of Sale form.

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

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

24 (c) (1) If the conditions specified in paragraph (2) are met, any
25 officer referred to in paragraphs (1) to (6), inclusive, of subdivision
26 (b) of Section 11105 may disseminate the name of the subject of
27 the record, the number of the firearms listed in the record, and the
28 description of any firearm, including the make, model, and caliber,
29 from the record relating to any firearm's sale, transfer, registration,
30 or license record, or any information reported to the Department
31 of Justice pursuant to any of the following:

32 (A) Section 26225, 27875, 27920, or 27966.

33 (B) Article 1 (commencing with Section 26700) and Article 2
34 (commencing with Section 26800) of Chapter 2 of Division 6 of
35 Title 4 of Part 6.

36 (C) Article 1 (commencing with Section 27500) of Chapter 4
37 of Division 6 of Title 4 of Part 6.

38 (D) Chapter 5 (commencing with Section 28050) of Division
39 6 of Title 4 of Part 6.

1 (E) Article 2 (commencing with Section 28150) of Chapter 6
 2 of Division 6 of Title 4 of Part 6.

3 (F) Article 5 (commencing with Section 30900) of Chapter 2
 4 of Division 10 of Title 4 of Part 6.

5 (G) Chapter 2 (commencing with Section 33850) of Division
 6 11 of Title 4 of Part 6.

7 (H) Any provision listed in subdivision (a) of Section 16585.

8 (2) Information may be disseminated pursuant to paragraph (1)
 9 only if all of the following conditions are satisfied:

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

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

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

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

33 SEC. 2.5. Section 11106 of the Penal Code is amended to read:

34 11106. (a) (1) In order to assist in the investigation of crime,
 35 the prosecution of civil actions by city attorneys pursuant to
 36 paragraph (3) of subdivision (b), the arrest and prosecution of
 37 criminals, and the recovery of lost, stolen, or found property, the
 38 Attorney General shall keep and properly file a complete record
 39 of all of the following:

40 (A) All copies of fingerprints.

- 1 (B) Copies of licenses to carry firearms issued pursuant to
- 2 Section 26150, 26155, 26170, or 26215.
- 3 (C) Information reported to the Department of Justice pursuant
- 4 to Section 26225, 27875, 27920, 27966, 29180, or 29830.
- 5 (D) Dealers' records of sales of firearms.
- 6 (E) Reports provided pursuant to Article 1 (commencing with
- 7 Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or
- 8 pursuant to any provision listed in subdivision (a) of Section 16585.
- 9 (F) Forms provided pursuant to Section 12084, as that section
- 10 read prior to being repealed on January 1, 2006.
- 11 (G) Reports provided pursuant to Article 1 (commencing with
- 12 Section 26700) and Article 2 (commencing with Section 26800)
- 13 of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers'
- 14 records of sales of firearms.
- 15 (H) Information provided pursuant to Section 28255.
- 16 (I) Reports of stolen, lost, found, pledged, or pawned property
- 17 in any city or county of this state.
- 18 (2) The Attorney General shall, upon proper application therefor,
- 19 furnish the information to the officers referred to in Section 11105.
- 20 (b) (1) The Attorney General shall permanently keep and
- 21 properly file and maintain all information reported to the
- 22 Department of Justice pursuant to the following provisions as to
- 23 firearms and maintain a registry thereof:
- 24 (A) Article 1 (commencing with Section 26700) and Article 2
- 25 (commencing with Section 26800) of Chapter 2 of Division 6 of
- 26 Title 4 of Part 6.
- 27 (B) Article 1 (commencing with Section 27500) of Chapter 4
- 28 of Division 6 of Title 4 of Part 6.
- 29 (C) Chapter 5 (commencing with Section 28050) of Division 6
- 30 of Title 4 of Part 6.
- 31 (D) Any provision listed in subdivision (a) of Section 16585.
- 32 (E) Former Section 12084.
- 33 (F) Section 28255.
- 34 (G) Section 29180.
- 35 (H) Any other law.
- 36 (2) The registry shall consist of all of the following:
- 37 (A) The name, address, identification of, place of birth (state
- 38 or country), complete telephone number, occupation, sex,
- 39 description, and all legal names and aliases ever used by the owner
- 40 or person being loaned the particular firearm as listed on the

1 information provided to the department on the Dealers' Record of
2 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
3 in former Section 12084, or reports made to the department
4 pursuant to any provision listed in subdivision (a) of Section 16585,
5 Section 28255 or 29180, or any other law.

6 (B) The name and address of, and other information about, any
7 person (whether a dealer or a private party) from whom the owner
8 acquired or the person being loaned the particular firearm and
9 when the firearm was acquired or loaned as listed on the
10 information provided to the department on the Dealers' Record of
11 Sale, the LEFT, or reports made to the department pursuant to any
12 provision listed in subdivision (a) of Section 16585 or any other
13 law.

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

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

24 (E) Commencing January 1, 2019, the name of the person and
25 his or her spouse or domestic partner if the firearm is registered
26 to both persons. The department shall modify its registration forms
27 to the extent necessary, if it has not already done so, so that both
28 spouses or both domestic partners may register as the owners of
29 the firearm. This subparagraph shall not require the department to
30 change the Dealer's Record of Sale form.

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

37 (4) If any person is listed in the registry as the owner of a firearm
38 through a Dealers' Record of Sale prior to 1979, and the person
39 listed in the registry requests by letter that the Attorney General
40 store and keep the record electronically, as well as in the record's

1 existing photographic, photostatic, or nonerasable optically stored
2 form, the Attorney General shall do so within three working days
3 of receipt of the request. The Attorney General shall, in writing,
4 and as soon as practicable, notify the person requesting electronic
5 storage of the record that the request has been honored as required
6 by this paragraph.

7 (c) (1) If the conditions specified in paragraph (2) are met, any
8 officer referred to in paragraphs (1) to (6), inclusive, of subdivision
9 (b) of Section 11105 may disseminate the name of the subject of
10 the record, the number of the firearms listed in the record, and the
11 description of any firearm, including the make, model, and caliber,
12 from the record relating to any firearm's sale, transfer, registration,
13 or license record, or any information reported to the Department
14 of Justice pursuant to any of the following:

15 (A) Section 26225, 27875, 27920, or 27966.

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

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

23 (E) Article 2 (commencing with Section 28150) of Chapter 6
24 of Division 6 of Title 4 of Part 6.

25 (F) Article 5 (commencing with Section 30900) of Chapter 2
26 of Division 10 of Title 4 of Part 6.

27 (G) Chapter 2 (commencing with Section 33850) of Division
28 11 of Title 4 of Part 6.

29 (H) Any provision listed in subdivision (a) of Section 16585.

30 (2) Information may be disseminated pursuant to paragraph (1)
31 only if all of the following conditions are satisfied:

32 (A) The subject of the record has been arraigned for a crime in
33 which the victim is a person described in Section 6211 of the
34 Family Code and is being prosecuted or is serving a sentence for
35 the crime, or the subject of the record is the subject of an
36 emergency protective order, a temporary restraining order, or an
37 order after hearing, which is in effect and has been issued by a
38 family court under the Domestic Violence Protection Act set forth
39 in Division 10 (commencing with Section 6200) of the Family
40 Code.

1 (B) The information is disseminated only to the victim of the
2 crime or to the person who has obtained the emergency protective
3 order, the temporary restraining order, or the order after hearing
4 issued by the family court.

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

11 (3) The victim or person to whom information is disseminated
12 pursuant to this subdivision may disclose it as he or she deems
13 necessary to protect himself or herself or another person from
14 bodily harm by the person who is the subject of the record.

15 SEC. 3. Section 17060 of the Penal Code is amended to read:

16 17060. (a) As used in Section 25135, “residence” means any
17 structure intended or used for human habitation, including, but not
18 limited to, houses, condominiums, rooms, motels, hotels,
19 time-shares, and recreational or other vehicles where human
20 habitation occurs.

21 (b) As used in Section 27881, “resides within the same
22 residence” means that the individuals reside within the same
23 structure intended or used for human habitation, including, but not
24 limited to, houses, condominiums, and rooms, where human
25 habitation occurs, but does not mean individuals who reside within
26 discrete units of an apartment building, apartment complex, duplex,
27 or other similar complex.

28 (c) As used in Section 27882, “residence” means any structure
29 intended or used for human habitation, including, but not limited
30 to, houses, condominiums, rooms, motels, hotels, and time-shares,
31 but does not include a recreational or other vehicle where human
32 habitation occurs.

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

34 26600. (a) Section 26500 does not apply to any sale, delivery,
35 transfer, or loan of firearms made to an authorized law enforcement
36 representative of any city, county, city and county, or state, or of
37 the federal government, for exclusive use by that governmental
38 agency if, prior to the sale, delivery, transfer, or loan of these
39 firearms, written authorization from the head of the agency

1 authorizing the transaction is presented to the person from whom
2 the purchase, delivery, transfer, or loan is being made.

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

9 (c) Within 10 days of the date a firearm is acquired or received
10 by the agency pursuant to this section, a record of the same shall
11 be entered as an institutional weapon into the Automated Firearms
12 System (AFS) via the California Law Enforcement
13 Telecommunications System (CLETS) by the law enforcement or
14 state agency. Any agency without access to AFS shall arrange with
15 the sheriff of the county in which the agency is located to input
16 this information via this system.

17 SEC. 5. Section 27050 of the Penal Code is amended to read:

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

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

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

1 SEC. 6. Section 27600 of the Penal Code is amended to read:

2 27600. (a) Article 1 (commencing with Section 27500) does
3 not apply to any sale, delivery, transfer, or loan of firearms made
4 to, or the importation of firearms by, an authorized law enforcement
5 representative of any city, county, city and county, or state, or of
6 the federal government, for exclusive use by that governmental
7 agency if, prior to the sale, delivery, transfer, loan, or importation
8 of these firearms, written authorization from the head of the agency
9 authorizing the transaction is presented to the person from whom
10 the purchase, delivery, transfer, or loan is being made or from
11 whom the firearm is being imported.

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

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

26 (d) Any agency that is the registered owner of an institutional
27 weapon in accordance with subdivision (c) that subsequently
28 destroys that weapon shall enter information that the weapon has
29 been destroyed into the Automated Firearms System (AFS) via
30 the California Law Enforcement Telecommunications System
31 (CLETS) within 10 days of the destruction in accordance with
32 procedures prescribed by the Department of Justice. Any agency
33 without access to the AFS shall arrange with the sheriff of the
34 county in which the agency is located to input this information via
35 this system.

36 SEC. 7. Section 27881 is added to the Penal Code, to read:

37 27881. Section 27545 does not apply to the loan of a firearm
38 provided all of the following are met:

39 (a) The firearm being loaned is registered to the person making
40 the loan pursuant to Section 11106.

1 (b) The loan occurs within the individual receiving the firearm
2 and lender's shared place of residence or private property, which
3 is not zoned for commercial, retail, or industrial activity.

4 (c) The firearm at all times stays within the individual receiving
5 the firearm and lender's shared place of residence or private
6 property, which is not zoned for commercial, retail, or industrial
7 activity.

8 (d) The individual receiving the firearm is not prohibited by
9 state or federal law from possessing, receiving, owning, or
10 purchasing a firearm.

11 (e) The individual receiving the firearm is 18 years of age or
12 older.

13 (f) The individual receiving the firearm has a valid firearm safety
14 certificate, except that if the firearm being loaned is a handgun,
15 the individual may instead have an unexpired handgun safety
16 certificate.

17 (g) The person being loaned the firearm resides within the same
18 residence as the lender.

19 SEC. 8. Section 27882 is added to the Penal Code, to read:

20 27882. Section 27545 does not apply to the loan of a firearm
21 provided all of the following are met:

22 (a) The firearm being loaned is registered to the person making
23 the loan pursuant to Section 11106.

24 (b) The firearm being loaned is stored in the receiver's place of
25 residence or in an enclosed structure on the receiver's private
26 property, which is not zoned for commercial, retail, or industrial
27 activity.

28 (c) The firearm at all times stays within the receiver's place of
29 residence or in an enclosed structure on the receiver's private
30 property, which is not zoned for commercial, retail, or industrial
31 activity.

32 (d) The individual receiving the firearm is not prohibited by
33 state or federal law from possessing, receiving, owning, or
34 purchasing a firearm.

35 (e) The individual receiving the firearm is 18 years of age or
36 older.

37 (f) The individual receiving the firearm has a valid firearm safety
38 certificate, except that if the firearm being loaned is a handgun,
39 the individual may instead have an unexpired handgun safety
40 certificate.

- 1 (g) One of the following applies:
- 2 (1) The firearm is maintained within a locked container.
- 3 (2) The firearm is disabled by a firearm safety device.
- 4 (3) The firearm is maintained within a locked gun safe.
- 5 (4) The firearm is locked with a locking device, as defined in
- 6 Section 16860, which has rendered the firearm inoperable.
- 7 (h) The loan does not exceed 30 days in duration.
- 8 (i) The loan is made without consideration.
- 9 (j) There is writing in a format prescribed by the Department
- 10 of Justice that explains the obligations imposed by this section that
- 11 is signed by both the party loaning the firearm for storage and the
- 12 person receiving the firearm.
- 13 (k) Both parties to the loan have signed copies of the writing
- 14 required by subdivision (j).
- 15 *SEC. 9. Section 28300 of the Penal Code is amended to read:*
- 16 28300. (a) The Firearms Safety and Enforcement Special Fund
- 17 is hereby established in the State Treasury and shall be
- 18 administered by the Department of Justice.
- 19 (b) The Department of Justice may require firearms dealers to
- 20 charge each person who obtains a firearm a fee not to exceed five
- 21 dollars (\$5) for each transaction, except that the fee may be
- 22 increased at a rate not to exceed any increase in the California
- 23 Consumer Price Index as compiled and reported by the Department
- 24 of Industrial Relations, and not to exceed the reasonable cost of
- 25 regulation to the department. Revenues from this fee shall be
- 26 deposited in the Firearms Safety and Enforcement Special Fund.
- 27 (c) Revenue deposited into the Firearms Safety and Enforcement
- 28 Special Fund shall be available for expenditure by the Department
- 29 of Justice upon appropriation by the Legislature for ~~the purpose~~
- 30 ~~of implementing~~ *all of the following:*
- 31 (1) *Implementing* and enforcing the provisions of Article 2
- 32 (commencing with Section 31610) of Chapter 4 of Division ~~10;~~
- 33 ~~enforcing 10.~~
- 34 (2) *Enforcing* Section ~~830.95,~~ Title 830.95.
- 35 (3) *Implementing subparagraph (E) of paragraph (2) of*
- 36 *subdivision (b) of Section 11106.*
- 37 (4) *Enforcing* Title 2 (commencing with Section 12001) of Part
- 38 ~~4,~~ 4.
- 39 (5) *Enforcing* Sections 16000 to 16960, ~~inclusive,~~ *inclusive.*
- 40 (6) *Enforcing* Sections 16970 to 17230, ~~inclusive,~~ *inclusive.*

1 (7) *Enforcing* Sections 17240 to 21390, ~~inclusive, and~~ *inclusive*.

2 (8) *Enforcing* Sections 21590 to 34370, ~~inclusive, and for the~~
3 *inclusive*.

4 (9) *The* establishment, maintenance, and upgrading of equipment
5 and services necessary for firearms dealers to comply with Article
6 2 (commencing with Section 28150).

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 31705 of the Penal Code is amended to read:

9 31705. (a) Subdivision (a) of Section 31615 does not apply
10 to any sale, delivery, transfer, or loan of firearms made to an
11 authorized law enforcement representative of any city, county,
12 city and county, or state, or of the federal government, for exclusive
13 use by that governmental agency if, prior to the sale, delivery,
14 transfer, or loan of these firearms, written authorization from the
15 head of the agency authorizing the transaction is presented to the
16 person from whom the purchase, delivery, transfer, or loan is being
17 made.

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

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

32 ~~SEC. 10.~~

33 *SEC. 11.* The Legislature finds and declares that the
34 amendments made to Sections 26600, 27050, 27600, and 31705
35 of the Penal Code by this act are declaratory of existing law.

36 ~~SEC. 11.~~

37 *SEC. 12.* Section 2.5 of this bill incorporates amendments to
38 Section 11106 of the Penal Code proposed by both this bill and
39 Assembly Bill 857. It shall only become operative if (1) both bills
40 are enacted and become effective on or before January 1, 2017,

- 1 (2) each bill amends Section 11106 of the Penal Code, and (3) this
- 2 bill is enacted after Assembly Bill 857, in which case Section 2 of
- 3 this bill shall not become operative.

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