

AMENDED IN ASSEMBLY JUNE 3, 1997
AMENDED IN ASSEMBLY APRIL 28, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 991

Introduced by Assembly Members Shelley and Perata
(Coauthors: Assembly Members Alquist, Aroner, Ducheny,
Keeley, Kuehl, and Lempert)
(Coauthors: Senators Alpert, Karnette, Peace, and Watson)

February 27, 1997

An act to add Section 42655 to the Food and Agricultural Code, and to amend Sections 11106, 12001, 12021, 12026.2, 12072, 12076, 12077, and 12082 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 991, as amended, Shelley. Firearms.

(1) Existing law prohibits any person who has been convicted of specified misdemeanors from owning, possessing, or having a firearm under his or her possession or control.

This bill would include among these misdemeanors a misdemeanor violation for furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register of sales prepared by a licensed firearms dealer. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(2) Under existing law, if the convictions described in (1) above occurred prior to January 1, 1991, a person may petition the court only once for relief from the prohibition.

This bill instead would permit any person who is subject to the prohibition because of a conviction of an offense prior to the offense being added to the specified offenses that are subject to the prohibition, to petition the court only once for relief from the prohibition.

(3) Existing law regulates the delivery, sale, or transfer of a firearm by persons who are licensed under federal law and whose licensed premises are located in this state.

This bill, commencing on or after January 1, 1998, would require any of these persons who is a personal handgun importer to comply with certain prescribed conditions within 30 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state. The bill also would require any of these persons, also licensed as collectors, who acquire and take actual possession outside of this state of a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic to report to the Department of Justice in a prescribed format his or her acquisition of that firearm within 5 days of transporting that firearm into this state. A violation of these requirements would be punishable as either a misdemeanor or felony. Because this bill would create new crimes, it would impose a state-mandated local program.

(4) Existing law makes it a misdemeanor to furnish a fictitious name or address or knowingly furnish any incorrect information or knowingly omit any information required to be provided for the register of sales prepared by a licensed firearms dealer.

This bill would make this offense punishable as either a misdemeanor or a felony. By increasing the punishment for an existing crime, this bill would impose a state-mandated local program.

(5) The bill also would require the Department of Food and Agriculture at any inspection station maintained at or near the California border to display specified notices concerning the bringing of firearms into this state.



(6) 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 42655 is added to the Food and
2 Agricultural Code, to read:

3 42655. At any inspection station maintained at or near
4 the California border by the director pursuant to Section
5 42654, the following sign shall be conspicuously posted in
6 block letters not less than four inches in height:

7 “NOTICE: IF YOU ARE A CALIFORNIA RESIDENT,
8 THE FEDERAL GUN CONTROL ACT PROBABLY
9 PROHIBITS YOU FROM BRINGING WITH YOU INTO
10 THIS STATE FIREARMS THAT YOU ACQUIRED
11 OUTSIDE OF THIS STATE.

12 IN ADDITION, IF YOU ARE A NEW CALIFORNIA
13 RESIDENT, STATE LAW REGULATES YOUR
14 BRINGING INTO CALIFORNIA HANDGUNS AND
15 OTHER DESIGNATED FIREARMS AND MANDATES
16 THAT SPECIFIC PROCEDURES BE FOLLOWED.

17 IF YOU HAVE ANY QUESTIONS ABOUT THE
18 PROCEDURES TO BE FOLLOWED IN BRINGING
19 FIREARMS INTO CALIFORNIA OR TRANSFERRING
20 FIREARMS WITHIN CALIFORNIA, YOU SHOULD
21 CONTACT THE CALIFORNIA DEPARTMENT OF
22 JUSTICE OR A LOCAL CALIFORNIA LAW
23 ENFORCEMENT AGENCY.”

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

26 11106. (a) In order to assist in the investigation of
27 crime, the arrest and prosecution of criminals, and the
28 recovery of lost, stolen, or found property, the Attorney
29 General shall keep and properly file a complete record of

1 all copies of fingerprints, copies of applications for
2 licenses to carry firearms issued pursuant to Section
3 12050, information reported to the Department of Justice
4 pursuant to Section 12053, dealers' records of sales of
5 firearms, reports provided pursuant to Section 12072 or
6 12078, forms provided pursuant to Section 12084, reports
7 provided pursuant to Section 12071 that are not dealers'
8 records of sales of firearms, and reports of stolen, lost,
9 found, pledged, or pawned property in any city or county
10 of this state, and shall, upon proper application therefor,
11 furnish to the officers mentioned in Section 11105, hard
12 copy printouts of those records as photographic,
13 photostatic, and nonerasable optically stored
14 reproductions.

15 (b) (1) Notwithstanding subdivision (a), the
16 Attorney General shall not retain or compile any
17 information from reports filed pursuant to subdivision (a)
18 of Section 12078 for firearms that are not pistols,
19 revolvers, or other firearms capable of being concealed
20 upon the person, from forms submitted pursuant to
21 Section 12084 for firearms that are not pistols, revolvers,
22 or other firearms capable of being concealed upon the
23 person, or from dealers' records of sales for firearms that
24 are not pistols, revolvers, or other firearms capable of
25 being concealed upon the person. All copies of the forms
26 submitted, or any information received in electronic
27 form, pursuant to Section 12084 for firearms that are not
28 pistols, revolvers, or other firearms capable of being
29 concealed upon the person, or of the dealers' records of
30 sales for firearms that are not pistols, revolvers, or other
31 firearms capable of being concealed upon the person shall
32 be destroyed within five days of the clearance by the
33 Attorney General, unless the purchaser or transferor is
34 ineligible to take possession of the firearm. All copies of
35 the reports filed, or any information received in
36 electronic form, pursuant to subdivision (a) of Section
37 12078 for firearms that are not pistols, revolvers, or other
38 firearms capable of being concealed upon the person shall
39 be destroyed within five days of the receipt by the

1 Attorney General, unless retention is necessary for use in
2 a criminal prosecution.

3 (2) A peace officer, the Attorney General, a
4 Department of Justice employee designated by the
5 Attorney General, or any authorized local law
6 enforcement employee shall not retain or compile any
7 information from a firearms transaction record, as
8 defined in paragraph (5) of subdivision (c) of Section
9 12071, for firearms that are not pistols, revolvers, or other
10 firearms capable of being concealed upon the person
11 unless retention or compilation is necessary for use in a
12 criminal prosecution or in a proceeding to revoke a
13 license issued pursuant to Section 12071.

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

15 (c) (1) The Attorney General shall permanently keep
16 and properly file and maintain all information reported
17 to the Department of Justice pursuant to Sections 12071,
18 12072, 12078, 12082, and 12084 or any other law, as to
19 pistols, revolvers, or other firearms capable of being
20 concealed upon the person and maintain a registry
21 thereof.

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

23 (A) The name, address, identification of, place of birth
24 (state or country), complete telephone number,
25 occupation, sex, description, and all legal names and
26 aliases ever used by the owner or person being loaned the
27 particular pistol, revolver, or other firearm capable of
28 being concealed upon the person as listed on the
29 information provided to the department on the Dealers'
30 Record of Sale, the Law Enforcement Firearms Transfer
31 (LEFT), as defined in Section 12084, or reports made to
32 the department pursuant to Section 12078 or any other
33 law.

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

1 Record of Sale, the LEFT, or reports made to the
2 department pursuant to Section 12078 or any other law.

3 (C) Any waiting period exemption applicable to the
4 transaction which resulted in the owner of or the person
5 being loaned the particular pistol, revolver, or other
6 firearm capable of being concealed upon the person
7 acquiring or being loaned that firearm.

8 (D) The manufacturer's name if stamped on the
9 firearm; model name or number if stamped on the
10 firearm; and, if applicable, the serial number, other
11 number (if more than one serial number is stamped on
12 the firearm), caliber, type of firearm, if the firearm is new
13 or used, barrel length, and color of the firearm.

14 (3) Information in the registry referred to in this
15 subdivision shall, upon proper application therefor, be
16 furnished to the officers referred to in Section 11105 or to
17 the person listed in the registry as the owner or person
18 who is listed as being loaned the particular pistol,
19 revolver, or other firearm capable of being concealed
20 upon the person in the form of hard copy printouts of that
21 information as photographic, photostatic, and
22 nonerasable optically stored reproductions.

23 SEC. 3. Section 12001 of the Penal Code is amended
24 to read:

25 12001. (a) As used in this title, the terms "pistol,"
26 "revolver," and "firearm capable of being concealed
27 upon the person" shall apply to and include any device
28 designed to be used as a weapon, from which is expelled
29 a projectile by the force of any explosion, or other form
30 of combustion, and which has a barrel less than 16 inches
31 in length. These terms also include any device which has
32 a barrel 16 inches or more in length which is designed to
33 be interchanged with a barrel less than 16 inches in
34 length.

35 (b) As used in this title, "firearm" means any device,
36 designed to be used as a weapon, from which is expelled
37 through a barrel a projectile by the force of any explosion
38 or other form of combustion.

39 (c) As used in Sections 12021, 12021.1, 12070, 12071,
40 12072, 12073, 12078, and 12101 of this code, and Sections

1 8100, 8101, and 8103 of the Welfare and Institutions Code,
2 the term “firearm” includes the frame or receiver of the
3 weapon.

4 (d) For the purposes of Sections 12025 and 12031, the
5 term “firearm” also shall include any rocket, rocket
6 propelled projectile launcher, or similar device
7 containing any explosive or incendiary material whether
8 or not the device is designed for emergency or distress
9 signaling purposes.

10 (e) (1) For purposes of Sections 12070, 12071, and
11 subdivisions (b), (c), (d), and (f) of Section 12072, the
12 term “firearm” does not include an unloaded firearm
13 which is defined as an “antique firearm” in Section
14 921(a)(16) of Title 18 of the United States Code.

15 (2) For purposes of Sections 12070, 12071, and
16 subdivisions (b), (c), and (d) of Section 12072, the term
17 “firearm” does not include an unloaded firearm that
18 meets both of the following:

19 (A) It is not a pistol, revolver, or other firearm capable
20 of being concealed upon the person.

21 (B) It is a curio or relic, as defined in Section 178.11 of
22 Title 27 of the Code of Federal Regulations.

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

28 (g) For purposes of Sections 12551 and 12552, the term
29 “BB device” means any instrument which expels a
30 metallic projectile, such as a BB or a pellet, through the
31 force of air pressure, CO₂ pressure, or spring action, or
32 any spot marker gun.

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

1 States Code, or persons licensed pursuant to Section
2 12071, and includes persons who receive finished parts of
3 firearms and assemble them into completed or partially
4 completed firearms in furtherance of that purpose.

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

14 (i) As used in Section 12071, 12072, or 12084,
15 “application to purchase” means any of the following:

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

19 (2) The initial completion of the LEFT by the
20 purchaser, transferee, or person being loaned the firearm
21 as required by subdivision (d) of Section 12084.

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

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

32 (k) For purposes of Sections 12021, 12021.1, 12025,
33 12070, 12072, 12073, 12078, and 12101 of this code, and
34 Sections 8100, 8101, and 8103 of the Welfare and
35 Institutions Code, notwithstanding the fact that the term
36 “any firearm” may be used in those sections, each firearm
37 or the frame or receiver of the same shall constitute a
38 distinct and separate offense under those sections.

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

4 (m) Pursuant to this title, any firearms eligibility
5 determination involving the issuance of any license,
6 permit, or certificate may include the submission of the
7 applicant's fingerprints to the United States Federal
8 Bureau of Investigation.

9 (n) As used in this chapter, a "personal handgun
10 importer" means an individual who meets all of the
11 following criteria:

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

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

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

21 (4) He or she is the owner of a pistol, revolver, or other
22 firearm capable of being concealed upon the person.

23 (5) He or she acquired that pistol, revolver, or other
24 firearm capable of being concealed upon the person
25 outside of California.

26 (6) He or she moves into this state on or after January
27 1, 1998, as a resident of this state.

28 (7) He or she intends to possess that ~~firearm~~ *pistol,*
29 *revolver, or other firearm capable of being concealed*
30 *upon the person* within this state on or after January 1,
31 1998, as a resident of this state.

32 (8) The ~~firearm~~ *pistol, revolver, or other firearm*
33 *capable of being concealed upon the person* was not
34 delivered to him or her by a person licensed pursuant to
35 Section 12071 who delivered that firearm following the
36 procedures set forth in Section 12071 and subdivision (c)
37 of Section 12072.

38 (9) The ~~firearm~~ *pistol, revolver, or other firearm*
39 *capable of being concealed upon the person* is not a

1 firearm that is prohibited by subdivision (a) of Section
2 12020.

3 (10) The ~~firearm~~ *pistol, revolver, or other firearm*
4 *capable of being concealed upon the person* is not an
5 assault weapon, as defined in Section 12276.

6 (11) The ~~firearm~~ *pistol, revolver, or other firearm*
7 *capable of being concealed upon the person* is not a
8 machinegun, as defined in Section 12200.

9 SEC. 4. Section 12021 of the Penal Code is amended
10 to read:

11 12021. (a) (1) Any person who has been convicted
12 of a felony under the laws of the United States, of the State
13 of California, or any other state, government, or country,
14 or of an offense enumerated in subdivision (a), (b), or (d)
15 of Section 12001.6, or who is addicted to the use of any
16 narcotic drug, who owns or has in his or her possession or
17 under his or her custody or control any firearm is guilty
18 of a felony.

19 (2) Any person who has two or more convictions for
20 violating paragraph (2) of subdivision (a) of Section 417
21 and who owns or has in his or her possession or under his
22 or her custody or control any firearm is guilty of a felony.

23 (b) Notwithstanding subdivision (a), any person who
24 has been convicted of a felony or of an offense
25 enumerated in Section 12001.6, when that conviction
26 results from certification by the juvenile court for
27 prosecution as an adult in an adult court under Section
28 707 of the Welfare and Institutions Code, who owns or has
29 in his or her possession or under his or her custody or
30 control any firearm is guilty of a felony.

31 (c) (1) Except as provided in subdivision (a) or
32 paragraph (2) of this subdivision, any person who has
33 been convicted of a misdemeanor violation of Section 71,
34 76, 136.5, or 140, subdivision (d) of Section 148, Section
35 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5,
36 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9,
37 646.9, 12023, or 12024, subdivision (b) or (d) of Section
38 12034, paragraph (1) or (2) of subdivision (l) of Section
39 12076, Section 12040, subdivision (b) of Section 12072,
40 subdivision (a) of former Section 12100, Section 12220,

1 12320, or 12590, or Section 8100, 8101, or 8103 of the
2 Welfare and Institutions Code, any firearm-related
3 offense pursuant to Sections 871.5 and 1001.5 of the
4 Welfare and Institutions Code, or of the conduct
5 punished in paragraph (3) of subdivision (g) of Section
6 12072, and who, within 10 years of the conviction, owns,
7 or has in his or her possession or under his or her custody
8 or control, any firearm is guilty of a public offense, which
9 shall be punishable by imprisonment in a county jail not
10 exceeding one year or in the state prison, by a fine not
11 exceeding one thousand dollars (\$1,000), or by both that
12 imprisonment and fine. The court, on forms prescribed
13 by the Department of Justice, shall notify the department
14 of persons subject to this subdivision. However, the
15 prohibition in this paragraph may be reduced,
16 eliminated, or conditioned as provided in paragraph (2)
17 or (3).

18 (2) Any person employed as a peace officer described
19 in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5
20 whose employment or livelihood is dependent on the
21 ability to legally possess a firearm, who is subject to the
22 prohibition imposed by this subdivision because of a
23 conviction under Section 273.5, 273.6, or 646.9, may
24 petition the court only once for relief from this
25 prohibition. The petition shall be filed with the court in
26 which the petitioner was sentenced. If possible, the
27 matter shall be heard before the same judge that
28 sentenced the petitioner. Upon filing the petition, the
29 clerk of the court shall set the hearing date and shall
30 notify the petitioner and the prosecuting attorney of the
31 date of the hearing. Upon making each of the following
32 findings, the court may reduce or eliminate the
33 prohibition, impose conditions on reduction or
34 elimination of the prohibition, or otherwise grant relief
35 from the prohibition as the court deems appropriate:

36 (A) Finds by a preponderance of the evidence that the
37 petitioner is likely to use a firearm in a safe and lawful
38 manner.

39 (B) Finds that the petitioner is not within a prohibited
40 class as specified in subdivision (a), (b), (d), (e), or (g)

1 or Section 12021.1, and the court is not presented with any
2 credible evidence that the petitioner is a person
3 described in Section 8100 or 8103 of the Welfare and
4 Institutions Code.

5 (C) Finds that the petitioner does not have a previous
6 conviction under this subdivision no matter when the
7 prior conviction occurred.

8 In making its decision, the court shall consider the
9 petitioner's continued employment, the interest of
10 justice, any relevant evidence, and the totality of the
11 circumstances. The court shall require, as a condition of
12 granting relief from the prohibition under this section,
13 that the petitioner agree to participate in counseling as
14 deemed appropriate by the court. Relief from the
15 prohibition shall not relieve any other person or entity
16 from any liability that might otherwise be imposed. It is
17 the intent of the Legislature that courts exercise broad
18 discretion in fashioning appropriate relief under this
19 paragraph in cases in which relief is warranted. However,
20 nothing in this paragraph shall be construed to require
21 courts to grant relief to any particular petitioner. It is the
22 intent of the Legislature to permit persons who were
23 convicted of an offense specified in Section 273.5, 273.6,
24 or 646.9 to seek relief from the prohibition imposed by this
25 subdivision.

26 (3) Any person who is subject to the prohibition
27 imposed by this subdivision because of a conviction of an
28 offense prior to that offense being added to paragraph
29 (1), may petition the court only once for relief from this
30 prohibition. The petition shall be filed with the court in
31 which the petitioner was sentenced. If possible, the
32 matter shall be heard before the same judge that
33 sentenced the petitioner. Upon filing the petition, the
34 clerk of the court shall set the hearing date and notify the
35 petitioner and the prosecuting attorney of the date of the
36 hearing. Upon making each of the following findings, the
37 court may reduce or eliminate the prohibition, impose
38 conditions on reduction or elimination of the prohibition,
39 or otherwise grant relief from the prohibition as the court
40 deems appropriate:



1 (A) Finds by a preponderance of the evidence that the
2 petitioner is likely to use a firearm in a safe and lawful
3 manner.

4 (B) Finds that the petitioner is not within a prohibited
5 class as specified in subdivision (a), (b), (d), (e), or (g)
6 or Section 12021.1, and the court is not presented with any
7 credible evidence that the petitioner is a person
8 described in Section 8100 or 8103 of the Welfare and
9 Institutions Code.

10 (C) Finds that the petitioner does not have a previous
11 conviction under this subdivision, no matter when the
12 prior conviction occurred.

13 In making its decision, the court may consider the
14 interest of justice, any relevant evidence, and the totality
15 of the circumstances. It is the intent of the Legislature
16 that courts exercise broad discretion in fashioning
17 appropriate relief under this paragraph in cases in which
18 relief is warranted. However, nothing in this paragraph
19 shall be construed to require courts to grant relief to any
20 particular petitioner.

21 (4) Law enforcement officials who enforce the
22 prohibition specified in this subdivision against a person
23 who has been granted relief pursuant to paragraph (2) or
24 (3), shall be immune from any liability for false arrest
25 arising from the enforcement of this subdivision unless
26 the person has in his or her possession a certified copy of
27 the court order that granted the person relief from the
28 prohibition. This immunity from liability shall not relieve
29 any person or entity from any other liability that might
30 otherwise be imposed.

31 (d) Any person who, as an express condition of
32 probation, is prohibited or restricted from owning,
33 possessing, controlling, receiving, or purchasing a firearm
34 and who owns, or has in his or her possession or under his
35 or her custody or control, any firearm but who is not
36 subject to subdivision (a) or (c) is guilty of a public
37 offense, which shall be punishable by imprisonment in a
38 county jail not exceeding one year or in the state prison,
39 by a fine not exceeding one thousand dollars (\$1,000), or
40 by both that imprisonment and fine. The court, on forms

1 provided by the Department of Justice, shall notify the
2 department of persons subject to this subdivision. The
3 notice shall include a copy of the order of probation and
4 a copy of any minute order or abstract reflecting the
5 order and conditions of probation.

6 (e) Any person who (1) is alleged to have committed
7 an offense listed in subdivision (b) of Section 707 of the
8 Welfare and Institutions Code, an offense described in
9 subdivision (b) of Section 1203.073, or any offense
10 enumerated in paragraph (1) of subdivision (c), (2) is
11 found to be a fit and proper subject to be dealt with under
12 the juvenile court law, and (3) is subsequently adjudged
13 a ward of the juvenile court within the meaning of Section
14 602 of the Welfare and Institutions Code because the
15 person committed an offense listed in subdivision (b) of
16 Section 707 of the Welfare and Institutions Code, an
17 offense described in subdivision (b) of Section 1203.073,
18 or any offense enumerated in paragraph (1) of
19 subdivision (c) shall not own, or have in his or her
20 possession or under his or her custody or control, any
21 firearm until the age of 30 years. A violation of this
22 subdivision shall be punishable by imprisonment in a
23 county jail not exceeding one year or in the state prison,
24 by a fine not exceeding one thousand dollars (\$1,000), or
25 by both that imprisonment and fine. The juvenile court,
26 on forms prescribed by the Department of Justice, shall
27 notify the department of persons subject to this
28 subdivision. Notwithstanding any other law, the forms
29 required to be submitted to the department pursuant to
30 this subdivision may be used to determine eligibility to
31 acquire a firearm.

32 (f) Subdivision (a) shall not apply to a person who has
33 been convicted of a felony under the laws of the United
34 States unless either of the following criteria is satisfied:

35 (1) Conviction of a like offense under California law
36 can only result in imposition of felony punishment.

37 (2) The defendant was sentenced to a federal
38 correctional facility for more than 30 days, or received a
39 fine of more than one thousand dollars (\$1,000), or
40 received both punishments.

1 (g) Every person who purchases or receives, or
2 attempts to purchase or receive, a firearm knowing that
3 he or she is subject to a protective order as defined in
4 Section 6218 of the Family Code, or a temporary
5 restraining order or injunction issued pursuant to Section
6 527.6 or 527.8 of the Code of Civil Procedure, is guilty of
7 a public offense, which shall be punishable by
8 imprisonment in a county jail not exceeding one year or
9 in the state prison, by a fine not exceeding one thousand
10 dollars (\$1,000), or by both that imprisonment and fine.
11 This subdivision does not apply unless the copy of the
12 restraining order personally served on the person against
13 whom the restraining order is issued contains a notice in
14 bold print stating (1) that the person is prohibited from
15 purchasing or receiving or attempting to purchase or
16 receive a firearm and (2) specifying the penalties for
17 violating this subdivision, or a court has provided actual
18 verbal notice of the firearm prohibition and penalty as
19 provided in Section 6304 of the Family Code. However,
20 this subdivision does not apply if the firearm is received
21 as part of the disposition of community property pursuant
22 to Division 7 (commencing with Section 2500) of the
23 Family Code.

24 SEC. 5. Section 12026.2 of the Penal Code is amended
25 to read:

26 12026.2. (a) Section 12025 does not apply to, or affect,
27 any of the following:

28 (1) The possession of a firearm by an authorized
29 participant in a motion picture, television, or video
30 production or entertainment event when the participant
31 lawfully uses the firearm as part of that production or
32 event or while going directly to, or coming directly from,
33 that production or event.

34 (2) The possession of a firearm in a locked container by
35 a member of any club or organization, organized for the
36 purpose of lawfully collecting and lawfully displaying
37 pistols, revolvers, or other firearms, while the member is
38 at meetings of the clubs or organizations or while going
39 directly to, and coming directly from, those meetings.

1 (3) The transportation of a firearm by a participant
2 when going directly to, or coming directly from, a
3 recognized safety or hunter safety class, or a recognized
4 sporting event involving that firearm.

5 (4) The transportation of a firearm by a person listed
6 in Section 12026 directly between any of the places
7 mentioned in Section 12026.

8 (5) The transportation of a firearm by a person when
9 going directly to, or coming directly from, a fixed place
10 of business or private residential property for the purpose
11 of the lawful repair or the lawful transfer, sale, or loan of
12 that firearm.

13 (6) The transportation of a firearm by a person listed
14 in Section 12026 when going directly from the place
15 where that person lawfully received that firearm to that
16 person's place of residence or place of business or to
17 private property owned or lawfully possessed by that
18 person.

19 (7) The transportation of a firearm by a person when
20 going directly to, or coming directly from, a gun show,
21 swap meet, or similar event to which the public is invited,
22 for the purpose of displaying that firearm in a lawful
23 manner.

24 (8) The transportation of a firearm by an authorized
25 employee or agent of a supplier of firearms when going
26 directly to, or coming directly from, a motion picture,
27 television, or video production or entertainment event
28 for the purpose of providing that firearm to an authorized
29 participant to lawfully use as a part of that production or
30 event.

31 (9) The transportation of a firearm by a person when
32 going directly to, or coming directly from, a target range,
33 which holds a regulatory or business license, for the
34 purposes of practicing shooting at targets with that
35 firearm at that target range.

36 (10) The transportation of a firearm by a person when
37 going directly to, or coming directly from, a place
38 designated by a person authorized to issue licenses
39 pursuant to Section 12050 when done at the request of the
40 issuing agency so that the issuing agency can determine

1 whether or not a license should be issued to that person
2 to carry that firearm.

3 (11) The transportation of a firearm by a person when
4 going directly to, or coming directly from, a law
5 enforcement agency for the purpose of a lawful transfer,
6 sale, or loan of that firearm pursuant to Section 12084.

7 (12) The transportation of a firearm by a person when
8 going directly to, or coming directly from, a lawful
9 camping activity for the purpose of having that firearm
10 available for lawful personal protection while at the
11 lawful campsite. This paragraph shall not be construed to
12 override the statutory authority granted to the
13 Department of Parks and Recreation or any other state
14 or local governmental agencies to promulgate rules and
15 regulations governing the administration of parks and
16 campgrounds.

17 (13) The transportation of a firearm by a person in
18 order to comply with subdivision (c) or (i) of Section
19 12078 as it pertains to that firearm.

20 (14) The transportation of a firearm by a person in
21 order to utilize subdivision (l) of Section 12078 as it
22 pertains to that firearm.

23 (15) The transportation of a firearm by a person when
24 going directly to, or coming directly from, a gun show or
25 event, as defined in Section 178.100 of Title 27 of the Code
26 of Federal Regulations, for the purpose of lawfully
27 transferring, selling, or loaning that firearm in
28 accordance with subdivision (d) of Section 12072.

29 (16) The transportation of a firearm by a person in
30 order to utilize paragraph (3) of subdivision (a) of
31 Section 12078 as it pertains to that firearm.

32 (17) The transportation of a firearm by a person in
33 order to comply with paragraph (2) of subdivision (f) of
34 Section 12072 as it pertains to that firearm.

35 (18) The transportation of a firearm by a person in
36 order to comply with paragraph (3) of subdivision (f) of
37 Section 12072 as it pertains to that firearm.

38 (b) In order for a firearm to be exempted under
39 subdivision (a), while being transported to or from a
40 place, the firearm shall be unloaded, kept in a locked

1 container, as defined in subdivision (d), and the course of
2 travel shall include only those deviations between
3 authorized locations as are reasonably necessary under
4 the circumstances.

5 (c) This section does not prohibit or limit the
6 otherwise lawful carrying or transportation of any pistol,
7 revolver, or other firearm capable of being concealed
8 upon the person in accordance with this chapter.

9 (d) As used in this section, “locked container” means
10 a secure container which is fully enclosed and locked by
11 a padlock, key lock, combination lock, or similar locking
12 device. The term “locked container” does not include the
13 utility or glove compartment of a motor vehicle.

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

16 12072. (a) (1) No person, corporation, or firm shall
17 knowingly supply, deliver, sell, or give possession or
18 control of a firearm to any person within any of the classes
19 prohibited by Section 12021 or 12021.1.

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

26 (3) (A) No person, corporation, or firm shall sell, loan,
27 or transfer a firearm to a minor.

28 (B) Subparagraph (A) shall not apply to or affect those
29 circumstances set forth in subdivision (p) of Section
30 12078.

31 (4) No person, corporation, or dealer shall sell, loan, or
32 transfer a firearm to any person whom he or she knows
33 or has cause to believe is not the actual purchaser or
34 transferee of the firearm, or to any person who is not the
35 person actually being loaned the firearm, if the person,
36 corporation, or dealer has either of the following:

37 (A) Knowledge that the firearm is to be subsequently
38 loaned, sold, or transferred to avoid the provisions of
39 subdivision (c) or (d).

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

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

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

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

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

13 (ii) The requirements of any exemption to the
14 provisions of subdivision (d).

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

17 (b) No person licensed under Section 12071 shall
18 supply, sell, deliver, or give possession or control of a
19 pistol, revolver, or firearm capable of being concealed
20 upon the person to any person under the age of 21 years
21 or any other firearm to a person under the age of 18 years.

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

25 (1) Prior to April 1, 1997, within 15 days of the
26 application to purchase a pistol, revolver, or other firearm
27 capable of being concealed upon the person, or, after
28 notice by the department pursuant to subdivision (d) of
29 Section 12076, within 15 days of the submission to the
30 department of any correction to the application, or within
31 15 days of the submission to the department of any fee
32 required pursuant to subdivision (e) of Section 12076,
33 whichever is later. Prior to April 1, 1997, within 10 days of
34 the application to purchase any firearm that is not a pistol,
35 revolver, or other firearm capable of being concealed
36 upon the person, or, after notice by the department
37 pursuant to subdivision (d) of Section 12076, within 10
38 days of the submission to the department of any
39 correction to the application, or within 10 days of the
40 submission to the department of any fee required

1 pursuant to subdivision (e) of Section 12076, whichever
2 is later. On or after April 1, 1997, within 10 days of the
3 application to purchase, or, after notice by the
4 department pursuant to subdivision (d) of Section 12076,
5 within 10 days of the submission to the department of any
6 correction to the application, or within 10 days of the
7 submission to the department of any fee required
8 pursuant to subdivision (e) of Section 12076, whichever
9 is later.

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

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

16 (4) Whenever the dealer is notified by the
17 Department of Justice that the person is in a prohibited
18 class described in Section 12021 or 12021.1 of this code or
19 Section 8100 or 8103 of the Welfare and Institutions Code.

20 (5) Commencing April 1, 1994, no pistol, revolver, or
21 other firearm capable of being concealed upon the
22 person shall be delivered unless the purchaser,
23 transferee, or person being loaned the firearm presents
24 to the dealer a basic firearms safety certificate.

25 (d) Where neither party to the transaction holds a
26 dealer's license issued pursuant to Section 12071, the
27 parties to the transaction shall complete the sale, loan, or
28 transfer of that firearm through either of the following:

29 (1) A licensed dealer pursuant to Section 12082.

30 (2) A law enforcement agency pursuant to Section
31 12084.

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

36 (1) Answering a test applicant's questions during an
37 objective test relating to basic firearms safety.

38 (2) Knowingly grading the examination falsely.

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

1 (4) Taking or allowing another person to take the basic
2 firearms safety course for one who is the applicant for the
3 basic firearms safety certificate.

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

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

8 (7) Reference to materials during the examination
9 and cheating by the applicant.

10 (8) Providing originals or photocopies of the objective
11 test, or any version thereof, to any person other than as
12 specified in subdivision (f) of Section 12805.

13 (f) (1) No person who is licensed pursuant to Chapter
14 44 (commencing with Section 921) of Title 18 of the
15 United States Code shall deliver, sell, or transfer a firearm
16 to a person who is licensed pursuant to Chapter 44
17 (commencing with Section 921) of Title 18 of the United
18 States Code and whose licensed premises are located in
19 this state unless one of the following conditions is met:

20 (A) The person presents proof of licensure pursuant to
21 Section 12071 to that person.

22 (B) The person presents proof that he or she is exempt
23 from licensure under Section 12071 to that person, in
24 which case the person also shall present proof that the
25 transaction is also exempt from the provisions of
26 subdivision (d).

27 (2) (A) On or after January 1, 1998, within 30 days of
28 bringing a pistol, revolver, or other firearm capable of
29 being concealed upon the person into this state, a
30 personal handgun importer shall do one of the following:

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

35 (ii) Sell or transfer the firearm in accordance with the
36 provisions of subdivision (d) or in accordance with the
37 provisions of an exemption from subdivision (d).

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

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

3 (B) If the personal handgun importer sells or transfers
4 the pistol, revolver, or other firearm capable of being
5 concealed upon the person pursuant to subdivision (d) of
6 Section 12072 and the sale or transfer cannot be
7 completed by the dealer to the purchaser or transferee,
8 and the firearm can be returned to the personal handgun
9 importer, the personal handgun importer shall have
10 complied with the provisions of this paragraph.

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

17 (D) On and after January 1, 1998, the department shall
18 conduct a public education and notification program
19 regarding this paragraph to ensure a high degree of
20 publicity of the provisions of this paragraph. Any costs
21 incurred by the department to implement this paragraph
22 shall be absorbed by the department within its existing
23 budget and the fees in the Dealers' Record of Sale Special
24 Account allocated for implementation of this
25 subparagraph pursuant to Section 12076.

26 (3) Where a person who is licensed as a collector
27 pursuant to Chapter 44 (commencing with Section 921)
28 of Title 18 of the United States Code and the regulations
29 issued pursuant thereto, whose licensed premises are
30 within this state, acquires a pistol, revolver, or other
31 firearm capable of being concealed upon the person that
32 is a curio or relic, as defined in Section 178.11 of Title 27
33 of the Code of Federal Regulations, outside of this state,
34 takes actual possession of that firearm outside of this state
35 pursuant to the provisions of subsection (j) of Section 923
36 of Title 18 of the United States Code, as amended by
37 Public Law 104-208, and transports that firearm into this
38 state, within five days of that licensed collector
39 transporting that firearm into this state, he or she shall



1 report to the department in a format prescribed by the
2 department his or her acquisition of that firearm.

3 *(4) It is the intent of the Legislature that a violation of*
4 *paragraph (2) or (3) shall not constitute a “continuing*
5 *offense” and the statute of limitations for commencing a*
6 *prosecution for a violation of paragraph (2) or (3)*
7 *commences on the date that the applicable grace period*
8 *specified in paragraph (2) or (3) expires.*

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

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

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

16 (B) If the defendant has a prior conviction of violating
17 this section or former Section 12100 of this code or Section
18 8101 of the Welfare and Institutions Code.

19 (C) If the defendant has a prior conviction of violating
20 any offense specified in subdivision (b) of Section 12021.1
21 or of a violation of Section 12020, 12220, or 12520, or of
22 former Section 12560.

23 (D) If the defendant is in a prohibited class described
24 in Section 12021 or 12021.1 of this code or Section 8100 or
25 8103 of the Welfare and Institutions Code.

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

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

32 (3) If any of the following circumstances apply, a
33 violation of this section shall be punished by
34 imprisonment in a county jail not exceeding one year or
35 in the state prison, or by a fine not to exceed one thousand
36 dollars (\$1,000), or by both the fine and imprisonment.

37 (A) A violation of paragraph (2) of subdivision (a).

38 (B) A violation of paragraph (3) of subdivision (a)
39 involving the sale, loan, or transfer of a pistol, revolver, or

1 other firearm capable of being concealed upon the
2 person to a minor.

3 (C) A violation of paragraph (4) of subdivision (a).

4 (D) A violation of paragraph (5) of subdivision (a).

5 (E) A violation of subdivision (b) involving the
6 delivery of a pistol, revolver, or other firearm capable of
7 being concealed upon the person.

8 (F) A violation of paragraph (1), (3), (4), or (5) of
9 subdivision (c) involving a pistol, revolver, or other
10 firearm capable of being concealed upon the person.

11 (G) A violation of subdivision (d) involving a pistol,
12 revolver, or other firearm capable of being concealed
13 upon the person.

14 (H) A violation of subdivision (e).

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

19 (A) A violation of paragraph (2) of subdivision (a) or
20 subdivision (b).

21 (B) The firearm transferred in violation of paragraph
22 (2) of subdivision (a) or subdivision (b) is used in the
23 subsequent commission of a felony for which a conviction
24 is obtained and the prescribed sentence is imposed.

25 SEC. 7. Section 12076 of the Penal Code is amended
26 to read:

27 12076. (a) (1) Before January 1, 1998, the
28 department shall determine the method by which a
29 dealer shall submit firearm purchaser information to the
30 department and the information shall be in one of the
31 following formats:

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

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

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

1 (b) (1) Where the register is used, the purchaser of
2 any firearm shall be required to present clear evidence of
3 his or her identity and age, as defined in Section 12071, to
4 the dealer, and the dealer shall require him or her to sign
5 his or her current legal name and affix his or her residence
6 address and date of birth to the register in quadruplicate.
7 The salesperson shall affix his or her signature to the
8 register in quadruplicate as a witness to the signature and
9 identification of the purchaser.

10 (2) The original of the register shall be retained by the
11 dealer in consecutive order. Each book of 50 originals
12 shall become the permanent register of transactions that
13 shall be retained for not less than three years from the
14 date of the last transaction and shall be available for the
15 inspection of any peace officer, Department of Justice
16 employee designated by the Attorney General, or agent
17 of the federal Bureau of Alcohol, Tobacco, and Firearms
18 upon the presentation of proper identification, but no
19 information shall be compiled therefrom regarding the
20 purchasers or other transferees of firearms that are not
21 pistols, revolvers, or other firearms capable of being
22 concealed upon the person.

23 (3) Two copies of the original sheet of the register, on
24 the date of the application to purchase, shall be placed in
25 the mail, postage prepaid, and properly addressed to the
26 Department of Justice in Sacramento.

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

29 (5) If the transaction is one conducted pursuant to
30 Section 12082, a photocopy of the original shall be
31 provided to the seller by the dealer, upon request.

32 (c) (1) Where the electronic or telephonic transfer of
33 applicant information is used, the purchaser shall be
34 required to present clear evidence of his or her identity
35 and age, as defined in Section 12071, to the dealer, and the
36 dealer shall require him or her to sign his or her current
37 legal name to the record of electronic or telephonic
38 transfer. The salesperson shall affix his or her signature to
39 the record of electronic or telephonic transfer as a witness
40 to the signature and identification of the purchaser.

1 (2) The record of applicant information shall be
2 transmitted to the Department of Justice in Sacramento
3 by electronic or telephonic transfer on the date of the
4 application to purchase.

5 (3) The original of each record of electronic or
6 telephonic transfer shall be retained by the dealer in
7 consecutive order. Each original shall become the
8 permanent record of the transaction that shall be
9 retained for not less than three years from the date of the
10 last transaction and shall be provided for the inspection
11 of any peace officer, Department of Justice employee
12 designated by the Attorney General, or agent of the
13 federal Bureau of Alcohol, Tobacco, and Firearms, upon
14 the presentation of proper identification, but no
15 information shall be compiled therefrom regarding the
16 purchasers or other transferees of firearms that are not
17 pistols, revolvers, or other firearms capable of being
18 concealed upon the person.

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

22 (5) If the transaction is one conducted pursuant to
23 Section 12082, a copy shall be provided to the seller by the
24 dealer, upon request.

25 (d) (1) The department shall examine its records, as
26 well as those records that it is authorized to request from
27 the State Department of Mental Health pursuant to
28 Section 8104 of the Welfare and Institutions Code, in
29 order to determine if the purchaser is a person described
30 in Section 12021 or 12021.1 of this code or Section 8100 or
31 8103 of the Welfare and Institutions Code.

32 (2) If the department determines that the purchaser
33 is a person described in Section 12021 or 12021.1 of this
34 code or Section 8100 or 8103 of the Welfare and
35 Institutions Code, it shall immediately notify the dealer
36 and the chief of the police department of the city or
37 county in which the sale was made, or if the sale was made
38 in a district in which there is no municipal police
39 department, the sheriff of the county in which the sale
40 was made, of that fact.

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

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

36 (e) The Department of Justice may charge the dealer
37 a fee not to exceed fourteen dollars (\$14), except that the
38 fee may be increased at a rate not to exceed any increase
39 in the California Consumer Price Index as compiled and
40 reported by the California Department of Industrial

1 Relations. The fee shall be no more than is sufficient to
2 reimburse all of the following, and is not to be used to
3 directly fund or as a loan to fund any other program:

4 (1) (A) The department for the cost of furnishing this
5 information.

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

9 (2) Local mental health facilities for state-mandated
10 local costs resulting from the reporting requirements
11 imposed by the amendments to Section 8103 of the
12 Welfare and Institutions Code, made by the act which also
13 added this paragraph.

14 (3) The State Department of Mental Health for the
15 costs resulting from the requirements imposed by the
16 amendments to Section 8104 of the Welfare and
17 Institutions Code made by the act which also added this
18 paragraph.

19 (4) Local mental hospitals, sanitariums, and
20 institutions for state-mandated local costs resulting from
21 the reporting requirements imposed by Section 8105 of
22 the Welfare and Institutions Code.

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

27 (6) Local law enforcement agencies for
28 state-mandated local costs resulting from the notification
29 requirements set forth in subdivision (c) of Section 8105
30 of the Welfare and Institutions Code.

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

34 (8) The Department of Food and Agriculture, in a sum
35 not to exceed one cent (\$0.01) per transaction, for the
36 costs resulting from the notification provisions set forth in
37 Section 42655 of the Food and Agricultural Code.

38 (9) The department, in a sum not to exceed four cents
39 (\$0.04) per transaction, for the costs associated with

1 subparagraph (D) of paragraph (2) of subdivision (f) of
2 Section 12072.

3 The fee established pursuant to this subdivision shall
4 not exceed the sum of the actual processing costs of the
5 department, the estimated reasonable costs of the local
6 mental health facilities for complying with the reporting
7 requirements imposed by the act which added paragraph
8 (2) to this subdivision, the costs of the State Department
9 of Mental Health for complying with the requirements
10 imposed by the act which added paragraph (3) to this
11 subdivision, the estimated reasonable costs of local
12 mental hospitals, sanitariums, and institutions for
13 complying with the reporting requirements imposed by
14 the act which added paragraph (4) to this subdivision, the
15 estimated reasonable costs of local law enforcement
16 agencies for complying with the notification
17 requirements set forth in subdivision (a) of Section 6385
18 of the Family Code, and the estimated reasonable costs of
19 local law enforcement agencies for complying with the
20 notification requirements set forth in subdivision (c) of
21 Section 8105 of the Welfare and Institutions Code created
22 by the act which added paragraph (6) to this subdivision,
23 the estimated reasonable costs of the Department of Food
24 and Agriculture, in a sum not to exceed one cent (\$0.01)
25 per transaction, for the costs resulting from the
26 notification provisions set forth in Section 42655 of the
27 Food and Agricultural Code, and the estimated
28 reasonable costs of the department, in a sum not to exceed
29 four cents (\$0.04) per transaction, for the costs associated
30 with subparagraph (D) of paragraph (2) of subdivision
31 (f) of Section 12072.

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

39 (A) For the actual costs associated with the
40 preparation, sale, processing, and filing of forms or

1 reports required or utilized pursuant to Section 12078 if
2 neither a dealer nor a law enforcement agency acting
3 pursuant to Section 12084 is filing the form or report.

4 (B) For the actual processing costs associated with the
5 submission of a Dealers' Record of Sale to the department
6 by a dealer or of the submission of a LEFT to the
7 department by a law enforcement agency acting
8 pursuant to Section 12084 if the waiting period described
9 in Sections 12071, 12072, and 12084 does not apply.

10 (C) For the actual costs associated with the
11 preparation, sale, processing, and filing of reports utilized
12 pursuant to subdivision (l) of Section 12078 or paragraph
13 (18) of subdivision (b) of Section 12071, or clause (i) of
14 subparagraph (A) of paragraph (2) of subdivision (f) of
15 Section 12072, or paragraph (3) of subdivision (f) of
16 Section 12072.

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

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

24 (3) Any costs incurred by the Department of Justice to
25 implement this subdivision shall be reimbursed from fees
26 collected and charged pursuant to this subdivision. No
27 fees shall be charged to the dealer pursuant to subdivision
28 (e) or to a law enforcement agency acting pursuant to
29 paragraph (6) of subdivision (d) of Section 12084 for costs
30 incurred for implementing this subdivision.

31 (g) All money received by the department pursuant to
32 this section shall be deposited in the Dealers' Record of
33 Sale Special Account of the General Fund, which is
34 hereby created, to be available, upon appropriation by
35 the Legislature, for expenditure by the department to
36 offset the costs incurred pursuant to this section,
37 subparagraph (D) of paragraph (2) of subdivision (f) of
38 Section 12072, and Sections 12289 and 12809.

39 (h) Where the electronic or telephonic transfer of
40 applicant information is used, the department shall

1 establish a system to be used for the submission of the fees
2 described in subdivision (e) to the department.

3 (i) (1) Only one fee shall be charged pursuant to this
4 section for a single transaction on the same date for the
5 sale of any number of firearms that are not pistols,
6 revolvers, or other firearms capable of being concealed
7 upon the person or for the taking of possession of those
8 firearms.

9 (2) In a single transaction on the same date for the
10 delivery of any number of firearms that are pistols,
11 revolvers, or other firearms capable of being concealed
12 upon the person, the department shall charge a reduced
13 fee pursuant to this section for the second and subsequent
14 firearms that are part of that transaction.

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

20 (k) Whenever the Department of Justice acts
21 pursuant to this section as it pertains to firearms other
22 than pistols, revolvers, or other firearms capable of being
23 concealed upon the person, the department's acts or
24 omissions shall be deemed to be discretionary within the
25 meaning of the California Tort Claims Act pursuant to
26 Division 3.6 (commencing with Section 810) of Title 1 of
27 the Government Code.

28 (l) A violation of this section is punishable as follows:

29 (1) Where the person furnishes a fictitious name or
30 address or knowingly furnishes any incorrect information
31 or knowingly omitting any information required to be
32 provided for the register, by imprisonment in a county jail
33 not to exceed one year or by imprisonment in the state
34 prison.

35 (2) Where the person furnishes a fictitious name or
36 address or knowingly furnishes any incorrect information
37 or knowingly omitting any information required to be
38 provided for the electronic or telephonic transfer, by
39 imprisonment in a county jail not to exceed one year or
40 by imprisonment in the state prison.

1 (3) In any case not specified in paragraph (1) or (2),
2 as a misdemeanor.

3 (m) As used in this section, the following definitions
4 apply:

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

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

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

10 (4) “Seller” means, if the transaction is being
11 conducted pursuant to Section 12082, the person selling,
12 loaning, or transferring the firearm.

13 SEC. 8. Section 12077 of the Penal Code is amended
14 to read:

15 12077. (a) The Department of Justice shall prescribe
16 the form of the register and the record of electronic or
17 telephonic transfer pursuant to Section 12074.

18 (b) For pistols, revolvers, and other firearms capable
19 of being concealed upon the person, information
20 contained in the register or record of electronic or
21 telephonic transfer shall be the date and time of sale,
22 make of firearm, peace officer exemption status pursuant
23 to subdivision (a) of Section 12078 and the agency name,
24 dealer waiting period exemption pursuant to subdivision
25 (n) of Section 12078, dangerous weapons permitholder
26 waiting period exemption pursuant to subdivision (r) of
27 Section 12078, curio and relic waiting period exemption
28 pursuant to subdivision (t) of Section 12078, California
29 Firearms Dealer number issued pursuant to Section
30 12071, purchaser’s basic firearms safety certificate
31 number issued pursuant to Sections 12805 and 12809,
32 manufacturer’s name if stamped on the firearm, model
33 name or number, if stamped on the firearm, if applicable,
34 serial number, other number (if more than one serial
35 number is stamped on the firearm), caliber, type of
36 firearm, if the firearm is new or used, barrel length, color
37 of the firearm, full name of purchaser, purchaser’s
38 complete date of birth, purchaser’s local address, if
39 current address is temporary, complete permanent
40 address of purchaser, identification of purchaser,

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

26 (c) For firearms other than pistols, revolvers, or other
 27 firearms capable of being concealed upon the person,
 28 information contained in the register or record of
 29 electronic or telephonic transfer shall be the date and
 30 time of sale, peace officer exemption status pursuant to
 31 subdivision (a) of Section 12078 and the agency name,
 32 auction or event waiting period exemption pursuant to
 33 subdivision (g) of Section 12078, California Firearms
 34 Dealer number issued pursuant to Section 12071,
 35 dangerous weapons permitholder waiting period
 36 exemption pursuant to subdivision (r) of Section 12078,
 37 full name of purchaser, purchaser's complete date of
 38 birth, purchaser's local address, if current address is
 39 temporary, complete permanent address of purchaser,
 40 identification of purchaser, purchaser's place of birth



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

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

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

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

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

38 (4) One firearm transaction shall be reported on each
39 record of sale document. For purposes of this subdivision,
40 a "transaction" means a single sale, loan, or transfer of any

1 number of firearms that are not pistols, revolvers, or other
2 firearms capable of being concealed upon the person.

3 (e) The dealer or salesperson making a sale shall
4 ensure that all required information has been obtained
5 from the purchaser. The dealer and all salespersons shall
6 be informed that incomplete information will delay sales.

7 (f) As used in this section, the following definitions
8 shall control:

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

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

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

14 SEC. 9. Section 12082 of the Penal Code is amended
15 to read:

16 12082. (a) A person shall complete any sale, loan, or
17 transfer of a firearm through a person licensed pursuant
18 to Section 12071 in accordance with this section in order
19 to comply with subdivision (d) of Section 12072. The
20 seller or transferor or the person loaning the firearm shall
21 deliver the firearm to the dealer who shall retain
22 possession of that firearm. The dealer shall then deliver
23 the firearm to the purchaser or transferee or the person
24 being loaned the firearm, if it is not prohibited, in
25 accordance with subdivision (c) of Section 12072. If the
26 dealer cannot legally deliver the firearm to the purchaser
27 or transferee or the person being loaned the firearm, the
28 dealer shall forthwith, without waiting for the conclusion
29 of the waiting period described in Sections 12071 and
30 12072, return the firearm to the transferor or seller or the
31 person loaning the firearm. The dealer shall not return
32 the firearm to the seller or transferor or the person
33 loaning the firearm when to do so would constitute a
34 violation of subdivision (a) of Section 12072. If the dealer
35 cannot legally return the firearm to the transferor or
36 seller or the person loaning the firearm, then the dealer
37 shall forthwith deliver the firearm to the sheriff of the
38 county or the chief of police or other head of a municipal
39 police department of any city or city and county who shall
40 then dispose of the firearm in the manner provided by

1 Sections 12028 and 12032. The purchaser or transferee or
2 person being loaned the firearm may be required by the
3 dealer to pay a fee not to exceed ten dollars (\$10) per
4 firearm, plus the applicable fee that the Department of
5 Justice may charge pursuant to Section 12076. Nothing in
6 these provisions shall prevent a dealer from charging a
7 smaller fee. The fee that the department may charge is
8 the fee that would be applicable pursuant to Section
9 12076, if the dealer was selling, transferring, or delivering
10 a firearm to a purchaser or transferee or person being
11 loaned a firearm, without any other parties being
12 involved in the transaction.

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

15 (1) Allow the seller or transferor of the person loaning
16 the firearm, and the purchaser or transferee or the person
17 being loaned the firearm, to complete a sale, loan, or
18 transfer through a dealer, and to allow those persons and
19 the dealer to comply with the requirements of this section
20 and Sections 12071, 12072, 12076, and 12077 and to
21 preserve the confidentiality of those records.

22 (2) Where a personal handgun importer is selling or
23 transferring a pistol, revolver, or other firearm capable of
24 being concealed upon the person to comply with clause
25 (ii) of subparagraph (A) of paragraph (2) of subdivision
26 (f) of Section 12072, to allow a personal handgun
27 importer's ownership of the pistol, revolver, or other
28 firearm capable of being concealed upon the person
29 being sold or transferred to be recorded in a manner that
30 if the firearm is returned to that personal handgun
31 importer because the sale or transfer cannot be
32 completed, the Department of Justice will have sufficient
33 information about that personal handgun importer so
34 that a record of his or her ownership can be maintained
35 in the registry provided by subdivision (c) of Section
36 11106.

37 (3) Ensure that the register or record of electronic or
38 telephonic transfer shall state the name and address of the
39 seller or transferor of the firearm or the person loaning
40 the firearm ~~or of the~~ and whether or not the person is a

1 personal handgun importer in addition to any other
2 information required by Section 12077.

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

5 SEC. 10. No reimbursement is required by this act
6 pursuant to Section 6 of Article XIII B of the California
7 Constitution because the only costs that may be incurred
8 by a local agency or school district will be incurred
9 because this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition
13 of a crime within the meaning of Section 6 of Article
14 XIII B of the California Constitution.

15 Notwithstanding Section 17580 of the Government
16 Code, unless otherwise specified, the provisions of this act
17 shall become operative on the same date that the act
18 takes effect pursuant to the California Constitution.

