

**ASSEMBLY BILL**

**No. 1717**

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**Introduced by Assembly Member Hertzberg**  
**(Principal coauthors: Assembly Members Kuehl, Scott, and**  
**Wildman)**  
**(Coauthors: Assembly Members Alquist, Keeley, and**  
**Washington)**

January 3, 2000

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An act to amend Sections 11106, 12001, and 12072 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1717, as introduced, Hertzberg. Firearms: ballistic testing.

(1) Existing law regulates the sale, transfer, and delivery of firearms by persons, corporations, firms, and dealers. Violations of specified provisions of law governing the sale or transfer of firearms may be punished as a misdemeanor or a felony.

This bill would provide that commencing one year after a date to be determined by action of the Attorney General after January 1, 2002, regarding an adequate ballistic identification system, no person who is licensed as a manufacturer or importer of firearms pursuant to federal law shall sell or otherwise transfer their ownership of a handgun, or of a barrel designed and intended to be attached to or be used for a handgun, to a resident of this state, unless the manufacturer or importer has complied with provisions requiring the submission of ballistic identification information for all

handguns that the manufacturer has manufactured, or the importer has imported. The bill would exempt antique firearms, as defined, and curios and relics, as defined, from these provisions. The bill would provide that a violation of these provisions is a misdemeanor. This bill would also make conforming changes. By creating a new crime punishable as a misdemeanor, this bill would impose a state-mandated local program.

(2) 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 11106 of the Penal Code is  
2 amended to read:  
3 11106. (a) In order to assist in the investigation of  
4 crime, the arrest and prosecution of criminals, and the  
5 recovery of lost, stolen, or found property, the Attorney  
6 General shall keep and properly file a complete record of  
7 all copies of fingerprints, copies of applications for  
8 licenses to carry firearms issued pursuant to Section  
9 12050, information reported to the Department of Justice  
10 pursuant to Section 12053, dealers' records of sales of  
11 firearms, *information, and* reports provided pursuant to  
12 Section 12072 or 12078, forms provided pursuant to  
13 Section 12084, reports provided pursuant to Section 12071  
14 that are not dealers' records of sales of firearms, and  
15 reports of stolen, lost, found, pledged, or pawned  
16 property in any city or county of this state, and shall, upon  
17 proper application therefor, furnish to the officers  
18 mentioned in Section 11105, hard copy printouts of those  
19 records as photographic, photostatic, and nonerasable  
20 optically stored reproductions.



1 (b) (1) Notwithstanding subdivision (a), the  
2 Attorney General shall not retain or compile any  
3 information from reports filed pursuant to subdivision (a)  
4 of Section 12078 for firearms that are not pistols,  
5 revolvers, or other firearms capable of being concealed  
6 upon the person, from forms submitted pursuant to  
7 Section 12084 for firearms that are not pistols, revolvers,  
8 or other firearms capable of being concealed upon the  
9 person, or from dealers' records of sales for firearms that  
10 are not pistols, revolvers, or other firearms capable of  
11 being concealed upon the person. All copies of the forms  
12 submitted, or any information received in electronic  
13 form, pursuant to Section 12084 for firearms that are not  
14 pistols, revolvers, or other firearms capable of being  
15 concealed upon the person, or of the dealers' records of  
16 sales for firearms that are not pistols, revolvers, or other  
17 firearms capable of being concealed upon the person shall  
18 be destroyed within five days of the clearance by the  
19 Attorney General, unless the purchaser or transferor is  
20 ineligible to take possession of the firearm. All copies of  
21 the reports filed, or any information received in  
22 electronic form, pursuant to subdivision (a) of Section  
23 12078 for firearms that are not pistols, revolvers, or other  
24 firearms capable of being concealed upon the person shall  
25 be destroyed within five days of the receipt by the  
26 Attorney General, unless retention is necessary for use in  
27 a criminal prosecution.

28 (2) A peace officer, the Attorney General, a  
29 Department of Justice employee designated by the  
30 Attorney General, or any authorized local law  
31 enforcement employee shall not retain or compile any  
32 information from a firearms transaction record, as  
33 defined in paragraph (5) of subdivision (c) of Section  
34 12071, for firearms that are not pistols, revolvers, or other  
35 firearms capable of being concealed upon the person  
36 unless retention or compilation is necessary for use in a  
37 criminal prosecution or in a proceeding to revoke a  
38 license issued pursuant to Section 12071.

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

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

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

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

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

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

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

1 (3) Information in the registry referred to in this  
2 subdivision shall, upon proper application therefor, be  
3 furnished to the officers referred to in Section 11105 or to  
4 the person listed in the registry as the owner or person  
5 who is listed as being loaned the particular pistol,  
6 revolver, or other firearm capable of being concealed  
7 upon the person in the form of hard copy printouts of that  
8 information as photographic, photostatic, and  
9 nonerasable optically stored reproductions.

10 (4) If any person is listed in the registry as the owner  
11 of a firearm through a Dealers' Record of Sale prior to  
12 1979, and the person listed in the registry requests by  
13 letter that the Attorney General store and keep the  
14 record electronically, as well as in the record's existing  
15 photographic, photostatic, or nonerasable optically  
16 stored form, the Attorney General shall do so within three  
17 working days of receipt of the request. The Attorney  
18 General shall, in writing, and as soon as practicable, notify  
19 the person requesting electronic storage of the record  
20 that the request has been honored as required by this  
21 paragraph.

22 SEC. 2. Section 12001 of the Penal Code is amended  
23 to read:

24 12001. (a) As used in this title, the terms "pistol,"  
25 "revolver," and "firearm capable of being concealed  
26 upon the person" shall apply to and include any device  
27 designed to be used as a weapon, from which is expelled  
28 a projectile by the force of any explosion, or other form  
29 of combustion, and that has a barrel less than 16 inches in  
30 length. These terms also include any device that has a  
31 barrel 16 inches or more in length which is designed to be  
32 interchanged with a barrel less than 16 inches in length.

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

37 (c) As used in Sections 12021, 12021.1, 12070, 12071,  
38 12072, 12073, 12078, and 12101 of this code, and Sections  
39 8100, 8101, and 8103 of the Welfare and Institutions Code,



1 the term “firearm” includes the frame or receiver of the  
2 weapon.

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

9 (e) For purposes of Sections 12070, 12071, and  
10 ~~paragraph (7) paragraphs (8) and (10)~~ of subdivision (a),  
11 and subdivisions (b), (c), (d), and (f) of Section 12072,  
12 the term “firearm” does not include an unloaded firearm  
13 that is defined as an “antique firearm” in Section  
14 921(a)(16) of Title 18 of the United States Code.

15 (f) Nothing shall prevent a device defined as a  
16 “pistol,” “revolver,” or “firearm capable of being  
17 concealed upon the person” from also being found to be  
18 a short-barreled shotgun or a short-barreled rifle, as  
19 defined in Section 12020.

20 (g) For purposes of Sections 12551 and 12552, the term  
21 “BB device” means any instrument that expels a metallic  
22 projectile, such as a BB or a pellet, through the force of  
23 air pressure, CO<sub>2</sub> pressure, or spring action, or any spot  
24 marker gun.

25 (h) As used in this title, “wholesaler” means any  
26 person who is licensed as a dealer pursuant to Chapter 44  
27 (commencing with Section 921) of Title 18 of the United  
28 States Code and the regulations issued pursuant thereto  
29 who sells, transfers, or assigns firearms, or parts of  
30 firearms, to persons who are licensed as manufacturers,  
31 importers, or gunsmiths pursuant to Chapter 44  
32 (commencing with Section 921) of Title 18 of the United  
33 States Code, or persons licensed pursuant to Section  
34 12071, and includes persons who receive finished parts of  
35 firearms and assemble them into completed or partially  
36 completed firearms in furtherance of that purpose.

37 “Wholesaler” shall not include a manufacturer,  
38 importer, or gunsmith who is licensed to engage in those  
39 activities pursuant to Chapter 44 (commencing with  
40 Section 921) of Title 18 of the United States Code or a

1 person licensed pursuant to Section 12071 and the  
2 regulations issued pursuant thereto. A wholesaler also  
3 does not include those persons dealing exclusively in  
4 grips, stocks, and other parts of firearms that are not  
5 frames or receivers thereof.

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

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

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

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

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

24 (k) For purposes of Sections 12021, 12021.1, 12025,  
25 12070, 12072, 12073, 12078, and 12101 of this code, and  
26 Sections 8100, 8101, and 8103 of the Welfare and  
27 Institutions Code, notwithstanding the fact that the term  
28 “any firearm” may be used in those sections, each firearm  
29 or the frame or receiver of the same shall constitute a  
30 distinct and separate offense under those sections.

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

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

1 (n) As used in this chapter, a “personal handgun  
2 importer” means an individual who meets all of the  
3 following criteria:

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

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

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

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

15 (5) He or she acquired that pistol, revolver, or other  
16 firearm capable of being concealed upon the person  
17 outside of California.

18 (6) He or she moves into this state on or after January  
19 1, 1998, as a resident of this state.

20 (7) He or she intends to possess that pistol, revolver, or  
21 other firearm capable of being concealed upon the  
22 person within this state on or after January 1, 1998.

23 (8) The pistol, revolver, or other firearm capable of  
24 being concealed upon the person was not delivered to  
25 him or her by a person licensed pursuant to Section 12071  
26 who delivered that firearm following the procedures set  
27 forth in Section 12071 and subdivision (c) of Section  
28 12072.

29 (9) He or she, while a resident of this state, had not  
30 previously reported his or her ownership of that pistol,  
31 revolver, or other firearm capable of being concealed  
32 upon the person to the Department of Justice in a manner  
33 prescribed by the department that included information  
34 concerning him or her and a description of the firearm.

35 (10) The pistol, revolver, or other firearm capable of  
36 being concealed upon the person is not a firearm that is  
37 prohibited by subdivision (a) of Section 12020.

38 (11) The pistol, revolver, or other firearm capable of  
39 being concealed upon the person is not an assault  
40 weapon, as defined in Section 12276 or 12276.1.



1 (12) The pistol, revolver, or other firearm capable of  
2 being concealed upon the person is not a machinegun, as  
3 defined in Section 12200.

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

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

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

10 (2) In the case of members of the armed forces of the  
11 United States, residency shall be deemed to be  
12 established when he or she was discharged from active  
13 service in this state.

14 SEC. 3. 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 (7) The dealer shall comply with the provisions of  
18 paragraph (19) of subdivision (b) of Section 12071.

19 (8) No person shall sell or otherwise transfer his or her  
20 ownership in a pistol, revolver, or other firearm capable  
21 of being concealed upon the person unless the firearm  
22 bears either:

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

26 (B) The identification number or mark assigned to the  
27 firearm by the Department of Justice pursuant to Section  
28 12092.

29 (9) (A) No person shall make an application to  
30 purchase more than one pistol, revolver, or other firearm  
31 capable of being concealed upon the person within any  
32 30-day period.

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

35 (i) Any law enforcement agency.

36 (ii) Any agency duly authorized to perform law  
37 enforcement duties.

38 (iii) Any state or local correctional facility.

39 (iv) Any private security company licensed to do  
40 business in California.

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

7 (vi) Any motion picture, television, or video  
8 production company or entertainment or theatrical  
9 company whose production by its nature involves the use  
10 of a firearm.

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

14 (viii) Any transaction conducted through a licensed  
15 dealer pursuant to Section 12082.

16 (ix) Any transaction conducted through a law  
17 enforcement agency pursuant to Section 12084.

18 (x) Any person who is licensed as a collector pursuant  
19 to Chapter 44 (commencing with Section 921) of Title 18  
20 of the United States Code and the regulations issued  
21 pursuant thereto and who has a current certificate of  
22 eligibility issued to him or her by the Department of  
23 Justice pursuant to Section 12071.

24 (xi) The exchange of a pistol, revolver, or other  
25 firearm capable of being concealed upon the person  
26 where the dealer purchased that firearm from the person  
27 seeking the exchange within the 30-day period  
28 immediately preceding the date of exchange or  
29 replacement.

30 (xii) The replacement of a pistol, revolver, or other  
31 firearm capable of being concealed upon the person  
32 when the person's pistol, revolver, or other firearm  
33 capable of being concealed upon the person was lost or  
34 stolen, and the person reported that firearm lost or stolen  
35 prior to the completion of the application to purchase to  
36 any local law enforcement agency of the city, county, or  
37 city and county in which he or she resides.

38 (xiii) The return of any pistol, revolver, or other  
39 firearm capable of being concealed upon the person to its  
40 owner.

1 (10) (A) Commencing on a date determined by the  
2 Attorney General pursuant to subparagraph (C), no  
3 person who is licensed as a manufacturer pursuant to  
4 Chapter 44 (commencing with Section 921) of Title 18 of  
5 the United States Code and the regulations issued  
6 pursuant thereto or who is licensed as an importer  
7 pursuant to Chapter 44 (commencing with Section 921)  
8 of Title 18 of the United States Code and the regulations  
9 issued pursuant thereto, shall sell or otherwise transfer  
10 their ownership of a pistol, revolver, or other firearm  
11 capable of being concealed upon the person to a person  
12 who is at that time residing in this state unless that  
13 manufacturer or importer has complied with  
14 subparagraph (D).

15 (B) Commencing on a date determined by the  
16 Attorney General pursuant to subparagraph (C), no  
17 person who is licensed as a manufacturer pursuant to  
18 Chapter 44 (commencing with Section 921) of Title 18 of  
19 the United States Code and the regulations issued  
20 pursuant thereto or who is licensed as an importer  
21 pursuant to Chapter 44 (commencing with Section 921)  
22 of Title 18 of the United States Code and the regulations  
23 issued pursuant thereto, shall sell or otherwise transfer  
24 their ownership of a barrel designed and intended to be  
25 attached to or used for a pistol, revolver, or other firearm  
26 capable of being concealed upon that person at the time  
27 of its transfer of ownership to a person who is at that time  
28 in this state unless that manufacturer or importer has  
29 complied with subparagraph (D).

30 (C) The Attorney General shall evaluate ballistic  
31 identification systems, including any federal ballistic  
32 identification system, and shall make a formal  
33 determination, after January 1, 2002, as to whether an  
34 adequate ballistic identification system or systems exist  
35 for law enforcement agencies in California to utilize for  
36 crime prevention. The Attorney General shall make that  
37 determination public as soon as reasonably practical after  
38 the determination has been made.

39 (D) One year from the date the Attorney General  
40 makes public the determination that an adequate ballistic

1 identification system or systems exist pursuant to  
2 subparagraph (C), every person who is licensed as a  
3 manufacturer pursuant to Chapter 44 (commencing with  
4 Section 921) of Title 18 of the United States Code and the  
5 regulations issued pursuant thereto or who is licensed as  
6 an importer pursuant to Chapter 44 (commencing with  
7 Section 921) of Title 18 of the United States Code and the  
8 regulations issued pursuant thereto, shall submit ballistic  
9 identification information, as required by the Attorney  
10 General, for all pistols, revolvers, or other firearms  
11 capable of being concealed upon the person, or barrels,  
12 as referenced in subparagraph (B), that the  
13 manufacturer manufactured, or the importer imported,  
14 on or after the one-year anniversary of the date in which  
15 the determination is made public to:

16 (i) The Department of Justice, in a format prescribed  
17 by the department.

18 (ii) The ballistic identification system selected by the  
19 Attorney General, in a format prescribed by the  
20 department.

21 (E) This paragraph does not apply to any antique  
22 firearms, as defined in paragraph (5) of subdivision (a) of  
23 Section 12020, or any curio or relic as defined in Section  
24 178.11 of Title 27 of the Code of Federal Regulations.

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

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

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

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

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

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

11 (5) Commencing April 1, 1994, no pistol, revolver, or  
12 other firearm capable of being concealed upon the  
13 person shall be delivered unless the purchaser,  
14 transferee, or person being loaned the firearm presents  
15 to the dealer a basic firearms safety certificate.

16 (6) No pistol, revolver, or other firearm capable of  
17 being concealed upon the person shall be delivered  
18 whenever the dealer is notified by the Department of  
19 Justice that within the preceding 30-day period the  
20 purchaser has made another application to purchase a  
21 pistol, revolver, or other firearm capable of being  
22 concealed upon the person and that the previous  
23 application to purchase involved none of the entities  
24 specified in subparagraph (B) of paragraph (9) of  
25 subdivision (a).

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

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

31 (2) A law enforcement agency pursuant to Section  
32 12084.

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

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

39 (2) Knowingly grading the examination falsely.



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

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

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

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

10 (7) Reference to materials during the examination  
11 and cheating by the applicant.

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

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

22 (A) The person presents proof of licensure pursuant to  
23 Section 12071 to that person.

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

29 (2) (A) On or after January 1, 1998, within 60 days of  
30 bringing a pistol, revolver, or other firearm capable of  
31 being concealed upon the person into this state, a  
32 personal handgun importer shall do one of the following:

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

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



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

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

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

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

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

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

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

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

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

39 (IV) Make persons subject to the provisions of this  
40 paragraph aware of the fact that reports referred to in



1 clause (i) of subparagraph (A) may be completed at  
2 either the licensed premises of dealers licensed pursuant  
3 to Section 12071 or at law enforcement agencies, that it  
4 is advisable to do so for the sake of accuracy and  
5 completeness of the reports, that prior to transporting a  
6 pistol, revolver, or other firearm capable of being  
7 concealed upon the person to a law enforcement agency  
8 in order to comply with subparagraph (A), the person  
9 should give prior notice to the law enforcement agency  
10 that he or she is doing so, and that in any event, the pistol,  
11 revolver, or other firearm capable of being concealed  
12 upon the person should be transported unloaded and in  
13 a locked container.

14 (iii) Any costs incurred by the department to  
15 implement this paragraph shall be absorbed by the  
16 department within its existing budget and the fees in the  
17 Dealers' Record of Sale Special Account allocated for  
18 implementation of this subparagraph pursuant to Section  
19 12076.

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

36 (4) (A) It is the intent of the Legislature that a  
37 violation of paragraph (2) or (3) shall not constitute a  
38 "continuing offense" and the statute of limitations for  
39 commencing a prosecution for a violation of paragraph



1 (2) or (3) commences on the date that the applicable  
2 grace period specified in paragraph (2) or (3) expires.

3 (B) Paragraphs (2) and (3) shall not apply to a person  
4 who reports his or her ownership of a pistol, revolver, or  
5 other firearm capable of being concealed upon the  
6 person after the applicable grace period specified in  
7 paragraph (2) or (3) expires if evidence of that violation  
8 arises only as the result of the person submitting the  
9 report described in paragraph (2) or (3).

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

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

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

17 (B) If the defendant has a prior conviction of violating  
18 the provisions, other than paragraph (9) *or* (10) of  
19 subdivision (a), of this section or former Section 12100 of  
20 this code or Section 8101 of the Welfare and Institutions  
21 Code.

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

26 (D) If the defendant is in a prohibited class described  
27 in Section 12021 or 12021.1 of this code or Section 8100 or  
28 8103 of the Welfare and Institutions Code.

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

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

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

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

3 (B) A violation of paragraph (3) of subdivision (a)  
4 involving the sale, loan, or transfer of a pistol, revolver, or  
5 other firearm capable of being concealed upon the  
6 person to a minor.

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

10 (D) A violation of paragraph (1), (3), (4), (5), or (6)  
11 of subdivision (c) involving a pistol, revolver, or other  
12 firearm capable of being concealed upon the person.

13 (E) A violation of subdivision (d) involving a pistol,  
14 revolver, or other firearm capable of being concealed  
15 upon the person.

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

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

21 (A) A violation of paragraph (2) of subdivision (a) or  
22 subdivision (b).

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

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

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

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

35 (D) For purposes of this paragraph each application to  
36 purchase a pistol, revolver, or other firearm capable of  
37 being concealed upon the person in violation of  
38 paragraph (9) of subdivision (a) shall be deemed a  
39 separate offense.

1 SEC. 4. No reimbursement is required by this act  
2 pursuant to Section 6 of Article XIII B of the California  
3 Constitution because the only costs that may be incurred  
4 by a local agency or school district will be incurred  
5 because this act creates a new crime or infraction,  
6 eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section  
8 17556 of the Government Code, or changes the definition  
9 of a crime within the meaning of Section 6 of Article  
10 XIII B of the California Constitution.

