

AMENDED IN SENATE JANUARY 3, 2000

AMENDED IN SENATE JANUARY 19, 1999

SENATE BILL

No. 31

Introduced by ~~Senators Peace, Morrow, Costa, Perata, and~~
Rainey Senator Peace

(Principal coauthors: ~~Assembly Members Ashburn,~~
~~Calderon, and Frusetta~~)

(Coauthors: ~~Assembly Members Leach, McClintock, Scott,~~
~~Soto, and Wayne~~)

December 7, 1998

An act to amend ~~Sections 188, 189, and 190.2 of the Penal Code, and to amend Section 3 of Chapter 629 of the Statutes of 1998, relating to murder. Section 6389 of the Family Code, and to amend Sections 11106, 12001, 12026.2, 12070, 12071, 12072, 12073, 12076, 12077, 12078, 12082, and 12084 of, and to add Section 12083 to, the Penal Code, relating to firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, Peace. ~~Murder: special circumstances~~
Firearms: delivery and transfer: registration card.

(1) Existing law prohibits a person subject to a specified protective order from owning, possessing, purchasing, or receiving a firearm while the order is in effect, and requires the restrained person to relinquish any firearm in the person's immediate possession or control, as specified. Existing law provides for the return of the relinquished weapon, or sale or other transfer by law enforcement if return is not permitted for specified reasons. Existing law also provides for the

restrained person to sell firearms to a law enforcement agency, as specified.

This bill would, in addition, require that when the law enforcement agency is required to sell or transfer a relinquished pistol, revolver, or other firearm capable of being concealed upon the person, the agency enter specified information regarding the firearm into the Automated Firearms System, as specified. This bill would also provide that when a restrained person sells firearms to a law enforcement agency, as specified by existing law, that the delivery and sale or transfer shall be exempt from specified provisions of law regarding delivery and transfer of firearms through licensed firearms dealers. This bill would also provide that these provisions are declarative of existing law.

(2) Existing law requires the Attorney General to maintain a registry of information reported to the Department of Justice regarding the licensing of firearms dealers and including various transactions involving pistols, revolvers, or other firearms capable of being concealed upon the person.

This bill would additionally require this registry to include the date and time that the firearm was delivered. The bill would also provide, upon request and payment of a fee, for the issuance of a registration card to the owner of a registered firearm containing information regarding the firearm, the owner, and the registration, as specified.

(3) Existing law prohibits a person from carrying a concealed firearm under specified circumstances. Existing law also exempts from this prohibition certain persons under specified conditions.

This bill would add to the list of exemptions the transportation of a firearm for specified purposes.

(4) Existing law provides that, with exceptions, no person may sell, lease or transfer firearms without a license, as specified.

This bill would create additional exceptions to those prohibitions.

(5) Existing law, with specified exceptions, requires firearm licensees to record certain information regarding firearm transactions. Existing law also provides that the failure to comply with specified requirements in connection

with the transfer and delivery of firearms is punishable as a misdemeanor or a felony.

This bill would create additional exceptions to those requirements. This bill would also require licensees to record and submit additional information regarding firearms transfers to the Department of Justice, as specified. Failure to record and submit that information would be punishable as a misdemeanor or a felony. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

(6) Existing law, with specified exceptions, provides certain prohibitions and requirements with regard to the circumstances under which firearms may be sold or transferred.

This bill would create additional exceptions to those prohibitions and requirements. This bill would also impose additional requirements upon local law enforcement agencies in connection with firearms acquired by law enforcement agencies, as specified. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

(7) Existing law generally provides under what circumstances a person is prohibited from possessing a firearm.

This bill would create a procedure for disposing of a firearm in the circumstance where a person becomes ineligible to possess a firearm, so that if the procedure is followed, the person would not be in violation of those provisions of law that would otherwise prohibit the person from possessing a firearm.

(8) This bill would make a technical, nonsubstantive change to a related provision.

(9) This bill would also provide that Chapter 1180 of the Statutes of 1988 shall be known, and may be cited, as the Klehs Safe and Responsible Firearms Transfer Act of 1988.

(10) This bill would provide that Chapter 462 of the Statutes of 1997 shall be known, and may be cited as the Shelley-Alpert-Ducheny Pistol-Revolver Registration Parity Act of 1997.

(11) *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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(1) Existing law defines the term malice, for purposes of murder, and provides that malice may be express or implied. Under existing law malice is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature.~~

~~This bill would delete the term deliberate from this definition of express malice and provide that this definition is declaratory of existing law.~~

~~(2) Existing law, as amended by initiative statute, provides that any murder that is perpetrated by specified means or by any other kind of willful, deliberate, and premeditated killing, is murder of the first degree. The initiative statute provides that any amendment of its provisions by the Legislature shall require a $\frac{2}{3}$ vote of the membership of each house.~~

~~This bill additionally would provide that a murder committed with the intent to kill that is perpetrated by means of arson or kidnapping, or a murder perpetrated by a defendant who intentionally kills a victim who is under 14 years of age at the time of the murder, and the defendant knows or reasonably should know that the victim is under 14 years of age, constitutes murder in the first degree. Because it would amend an initiative statute, the bill would require a $\frac{2}{3}$ vote.~~



(3) Existing law, as amended by initiative statute, provides that the penalty for a defendant found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole where one or more special circumstances has been charged and found to be true.

This bill would include within the enumeration of special circumstances a murder where the defendant intentionally killed the victim, who was under 14 years of age, and the defendant knew or reasonably should have known that the victim was under 14 years of age. The bill would provide that these provisions shall become effective only when submitted to, and approved by, the voters.

This bill would incorporate additional amendments to Section 190.2 of the Penal Code proposed by Chapter 629 of the Statutes of 1998, but not yet approved by the voters, to be operative only if both that chapter and this bill are approved by the voters. The bill also would amend Chapter 629 of the Statutes of 1998 to make conforming changes.

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

1 ~~SECTION 1. Section 188 of the Penal Code is~~

2 ~~SECTION 1. Section 6389 of the Family Code is~~
3 ~~amended to read:~~

4 6389. (a) A person subject to a protective order, as
5 defined in Section 6218, shall not own, possess, purchase,
6 or receive a firearm while that protective order is in
7 effect.

8 (b) The Judicial Council shall provide a notice on all
9 forms requesting a protective order that, at the hearing
10 for a protective order, the respondent shall be ordered to
11 relinquish possession or control of any firearms and not to
12 purchase or receive or attempt to purchase or receive any
13 firearms for a period not to exceed the duration of the
14 restraining order.

15 (c) If the respondent is present in court at a duly
16 noticed hearing, the court shall order the respondent to
17 relinquish any firearm in that person's immediate

1 possession or control, or subject to that person's
2 immediate possession or control, within 24 hours of the
3 order, by either surrendering the firearm to the control
4 of local law enforcement officials, or by selling the firearm
5 to a licensed gun dealer, as specified in Section 12071 of
6 the Penal Code. If the respondent is not present at the
7 hearing, the respondent shall relinquish the firearm
8 within 48 hours after being served with the order. A
9 person ordered to relinquish any firearm pursuant to this
10 subdivision shall file with the court a receipt showing the
11 firearm was surrendered to the local law enforcement
12 agency or sold to a licensed gun dealer within 72 hours
13 after receiving the order. In the event that it is necessary
14 to continue the date of any hearing due to a request for
15 a relinquishment order pursuant to this section, the court
16 shall ensure that all applicable protective orders
17 described in Section 6218 remain in effect or bifurcate the
18 issues and grant the permanent restraining order
19 pending the date of the hearing.

20 (d) If the respondent declines to relinquish possession
21 of any firearm based upon the assertion of the right
22 against self-incrimination, as provided by the Fifth
23 Amendment to the United States Constitution and
24 Section 15 of Article I of the California Constitution, the
25 court may grant use immunity for the act of relinquishing
26 the firearm required under this section.

27 (e) A local law enforcement agency may charge the
28 respondent a fee for the storage of any firearm pursuant
29 to this section. This fee shall not exceed the actual cost
30 incurred by the local law enforcement agency for the
31 storage of the firearm. For purposes of this subdivision,
32 "actual cost" means expenses directly related to taking
33 possession of a firearm, storing the firearm, and
34 surrendering possession of the firearm to a licensed
35 dealer as defined in Section 12071 of the Penal Code or to
36 the respondent.

37 (f) The restraining order requiring a person to
38 relinquish a firearm pursuant to subdivision (c) shall state
39 on its face that the respondent is prohibited from owning,
40 possessing, purchasing, or receiving a firearm while the

1 protective order is in effect and that the firearm shall be
2 relinquished to the local law enforcement agency for that
3 jurisdiction or sold to a licensed gun dealer, and that proof
4 of surrender or sale shall be filed with the court within a
5 specified period of receipt of the order. The order shall
6 also state on its face the expiration date for
7 relinquishment. Nothing in this section shall limit a
8 respondent's right under existing law to petition the court
9 at a later date for modification of the order.

10 (g) (1) The restraining order requiring a person to
11 relinquish a firearm pursuant to subdivision (c) shall
12 prohibit the person from possessing or controlling any
13 firearm for the duration of the order. At the expiration of
14 the order, the local law enforcement agency shall return
15 possession of any surrendered firearm to the respondent,
16 within five days after the expiration of the
17 relinquishment order, unless the local law enforcement
18 agency determines that (1) the firearm has been stolen,
19 (2) the respondent is prohibited from possessing a
20 firearm because the respondent is in any prohibited class
21 for the possession of firearms, as defined in Sections 12021
22 and 12021.1 of the Penal Code and Sections 8100 and 8103
23 of the Welfare and Institutions Code, or (3) another
24 successive restraining order is used against the
25 respondent under this section. If the local law
26 enforcement agency determines that the respondent is
27 the legal owner of any firearm deposited with the local
28 law enforcement agency and is prohibited from
29 possessing any firearm, the respondent shall be entitled
30 to sell or transfer the firearm to a licensed dealer as
31 defined in Section 12071 of the Penal Code. If the firearm
32 has been stolen, the firearm shall be restored to the lawful
33 owner upon his or her identification of the firearm and
34 proof of ownership.

35 (2) *Within 10 days of the date that a firearm is sold,*
36 *delivered, returned, or transferred by a local law*
37 *enforcement agency pursuant to this section, if the*
38 *firearm is a pistol, revolver, or other firearm capable of*
39 *being concealed upon the person, the name of the agency*
40 *delivering the firearm, and the make, model, serial*

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

11 (h) The court may, as part of the relinquishment
12 order, grant an exemption from the relinquishment
13 requirements of this section for a particular firearm if the
14 respondent can show that a particular firearm is
15 necessary as a condition of continued employment and
16 that the current employer is unable to reassign the
17 respondent to another position where a firearm is
18 unnecessary. If an exemption is granted pursuant to this
19 subdivision, the order shall provide that the firearm shall
20 be in the physical possession of the respondent only
21 during scheduled work hours and during travel to and
22 from his or her place of employment. In any case
23 involving a peace officer who as a condition of
24 employment and whose personal safety depends on the
25 ability to carry a firearm, a court may allow the peace
26 officer to continue to carry a firearm, either on duty or off
27 duty, if the court finds by a preponderance of the
28 evidence that the officer does not pose a threat of harm.
29 Prior to making this finding, the court shall require a
30 mandatory psychological evaluation of the peace officer
31 and may require the peace officer to enter into
32 counseling or other remedial treatment program to deal
33 with any propensity for domestic violence.

34 (i) During the period of the relinquishment order, a
35 respondent is entitled to make one sale of all firearms that
36 are in the possession of a local law enforcement agency
37 pursuant to this section. A licensed gun dealer, who
38 presents a local law enforcement agency with a bill of sale
39 indicating that all firearms owned by the respondent that
40 are in the possession of the local law enforcement agency

1 have been sold by the respondent to the licensed gun
2 dealer, shall be given possession of those firearms, at the
3 location where a respondent's firearms are stored, within
4 five days of presenting the local law enforcement agency
5 with a bill of sale.

6 (j) The disposition of any unclaimed property under
7 this section shall be made pursuant to Section 1413 of the
8 Penal Code.

9 (k) (1) The return of a firearm to any person pursuant
10 to subdivision (g) shall not be subject to the requirements
11 of subdivision (d) of Section 12072 of the Penal Code.

12 (2) *The delivery of a firearm to a local law*
13 *enforcement agency person pursuant to this section shall*
14 *not be subject to the requirements of subdivision (d) of*
15 *Section 12072 of the Penal Code.*

16 (3) *The sale, delivery, or transfer of a firearm to a local*
17 *law enforcement agency pursuant to this section shall not*
18 *be subject to the requirements of subdivision (a) of*
19 *Section 12070 of the Penal Code.*

20 (l) If the respondent notifies the court that he or she
21 owns a firearm that is not in his or her immediate
22 possession, the court may limit the order to exclude that
23 firearm if the judge is satisfied the respondent is unable
24 to gain access to that firearm while the protective order
25 is in effect.

26 (m) Any respondent to a protective order who violates
27 any order issued pursuant to this section shall be punished
28 under the provisions of subdivision (g) of Section 12021
29 of the Penal Code.

30 (n) *Any respondent to a protective order who*
31 *complies with the provisions of this section shall be*
32 *exempt from the provisions of subdivision (g) of Section*
33 *12021 of the Penal Code.*

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

36 11106. (a) In order to assist in the investigation of
37 crime, the arrest and prosecution of criminals, and the
38 recovery of lost, stolen, or found property, the Attorney
39 General shall keep and properly file a complete record of
40 all copies of fingerprints, copies of applications for

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

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



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

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

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

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

21 (A) The name, address, identification of, place of birth
22 (state or country), complete telephone number,
23 occupation, sex, description, and all legal names and
24 aliases ever used by the owner or person being loaned the
25 particular pistol, revolver, or other firearm capable of
26 being concealed upon the person as listed on the
27 information provided to the department on the Dealers'
28 Record of Sale, the Law Enforcement Firearms Transfer
29 (LEFT), as defined in Section 12084, or reports made to
30 the department pursuant to Section 12053, 12078, or any
31 other law.

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

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

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

12 (E) *Information provided pursuant to paragraphs*
13 *(19) and (20) of subdivision (b) of Section 12071.*

14 (F) *Information provided pursuant to paragraph (8)*
15 *of subdivision (d) of Section 12084.*

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

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

37 (d) *Whenever a pistol, revolver, or other firearm*
38 *capable of being concealed upon the person is stated as*
39 *being owned by a person listed in the registry created by*



1 subdivision (c), it shall be deemed to be registered to that
2 person as of one of the following applicable dates:

3 (1) If the firearm was delivered to the person pursuant
4 to an application to purchase and the delivery of the
5 firearm was not exempted from the waiting period set
6 forth in Section 12071, 12072, or 12084, the firearm shall be
7 deemed to be registered to the person as follows:

8 (A) If the firearm was delivered prior to the
9 implementation of paragraph (20) of subdivision (b) of
10 Section 12071 or paragraph (8) of subdivision (d) of
11 Section 12084, and prior to the effective date of paragraph
12 (19) of subdivision (b) of Section 12071, the firearm shall
13 be deemed registered to that person, unless the
14 department is notified that the application to purchase
15 that firearm was canceled, on the date that the waiting
16 period set forth in Section 12071, 12072, or 12084 on the
17 application to purchase that firearm elapsed.

18 (B) If the firearm was delivered prior to the
19 implementation of paragraph (20) of subdivision (b) of
20 Section 12071 or paragraph (8) of subdivision (d) of
21 Section 12084, and after the effective date of paragraph
22 (19) of subdivision (b) of Section 12071, the firearm shall
23 be deemed registered to that person, unless the
24 department is notified that the application to purchase
25 that firearm was canceled, on the date that the waiting
26 period set forth in Section 12017, 12072, or 12084 on the
27 application to purchase that firearm which is utilized in
28 order to comply with paragraph (19) of subdivision (b)
29 of Section 12071 in respect to that firearm has elapsed.

30 (C) If the firearm was delivered after the
31 implementation of paragraph (20) of subdivision (b) of
32 Section 12071 or paragraph (8) of subdivision (d) of
33 Section 12084, the firearm shall be deemed registered to
34 that person as of the date and time that the department
35 is notified that the firearm referred to in the application
36 to purchase was delivered to that person.

37 (2) If the firearm was delivered to a person pursuant
38 to an application to purchase and the delivery of the
39 firearm was exempted from the waiting period set forth
40 in Section 12071, 12072, or 12084, the firearm shall be

1 *deemed to be registered to the person at the time the*
2 *firearm was delivered to the person as reported to the*
3 *department on the application to purchase.*

4 *(3) If the firearm was reported to be owned by a*
5 *person pursuant to paragraph (18) of subdivision (b) of*
6 *Section 12071, the firearm shall be deemed to be*
7 *registered to the person at the time the person indicates*
8 *he or she took possession of the firearm.*

9 *(4) If the firearm was reported to be owned by a*
10 *person pursuant to subdivision (c) of Section 12078, the*
11 *firearm shall be deemed to be registered to the person at*
12 *the time the person indicates he or she took possession of*
13 *the firearm.*

14 *(5) If the firearm was reported to be owned by a*
15 *person pursuant to subparagraph (A) of paragraph (2) of*
16 *subdivision (i) of Section 12078, the firearm shall be*
17 *deemed to be registered to the person at the time the*
18 *person indicates he or she took possession of the firearm.*

19 *(6) If the firearm was reported to be owned by a*
20 *person pursuant to subparagraph (B) of paragraph (2) of*
21 *subdivision (i) of Section 12078, the firearm shall be*
22 *deemed to be registered to the person at the time the*
23 *person indicates he or she took possession of the firearm.*

24 *(7) If the firearm was reported to be owned by a*
25 *person pursuant to subparagraph (C) of paragraph (2) of*
26 *subdivision (i) of Section 12078, the firearm shall be*
27 *deemed to be registered to the person at the time the*
28 *agency delivered the firearm to the person.*

29 *(8) If the firearm was reported to be owned by a*
30 *person pursuant to subparagraph (D) of paragraph (2) of*
31 *subdivision (i) of Section 12078, the firearm shall be*
32 *deemed to be registered to the person at the time the*
33 *agency delivered the firearm to the person.*

34 *(9) If the firearm was reported to be owned by a*
35 *person pursuant to subdivision (l) of Section 12078, the*
36 *firearm shall be deemed to be registered to the person at*
37 *the time the person indicates that the firearm was*
38 *acquired by him or her.*

39 *(10) If the firearm was reported to be owned by a*
40 *person pursuant to paragraph (4) or (5) of subdivision*

1 (a) of Section 12078, the firearm shall be deemed to be
2 registered to the person at the time the agency delivering
3 the firearm reports the date of delivery.

4 (11) If the firearm was reported as being owned by a
5 person pursuant to Section 12053, as part of an application
6 to be licensed to carry that firearm pursuant to Section
7 12050, and the ownership of the firearm was not otherwise
8 previously reported to the Department of Justice, the
9 firearm shall be deemed to be registered to the person on
10 the date that he or she submits an application for a license
11 to carry the firearm pursuant to Section 12050.

12 (12) If the firearm was reported as being owned by a
13 person pursuant to Section 12053, as part of an application
14 for an amendment to a license to carry the particular
15 firearm pursuant to Section 12050, and the ownership of
16 the firearm was not otherwise previously reported to the
17 Department of Justice, the firearm shall be deemed to be
18 registered to the person on the date the he or she submits
19 an application for an amendment to a license to carry the
20 particular firearm issued pursuant to Section 12050.

21 (13) If the firearm was reported as being owned by a
22 person pursuant to clause (i) of subparagraph (A) of
23 paragraph (2) of subdivision (f) of Section 12072, the
24 firearm shall be deemed registered to that person as of
25 the date that he or she submits the report of the same to
26 the Department of Justice.

27 (14) If the firearm was reported as being owned by a
28 person pursuant to paragraph (3) of subdivision (f) of
29 Section 12072, the firearm shall be deemed registered to
30 that person as of the date that he or she submits the report
31 of the same to the Department of Justice.

32 (e) (1) If requested by the owner, the Department of
33 Justice upon registering a pistol, revolver, or other
34 firearm capable of being concealed upon the person shall
35 issue a registration card to the owner after payment of a
36 fee to cover the estimated actual costs associated with the
37 processing and mailing or delivery of the registration
38 card. The fee shall not in any event exceed fourteen
39 dollars (\$14), except that the fee may be increased at a
40 rate not to exceed any increase in the California

1 *Consumer Price Index as compiled and reported by the*
2 *California Department of Industrial Relations.*

3 (2) *The registration card referred to in paragraph (1)*
4 *shall contain upon its face the date issued, the name and*
5 *residence or business address of the registrant, the date*
6 *of birth of the registrant, clear evidence of the age and*
7 *identity of the registrant, as defined in Section 12071, the*
8 *name of the manufacturer of the registered firearm, the*
9 *serial number of the registered firearm, and the caliber*
10 *of the registered firearm, and any other information that*
11 *the department deems appropriate.*

12 SEC. 3. *Section 12001 of the Penal Code is amended*
13 *to read:*

14 12001. (a) As used in this title, the terms “pistol,”
15 “revolver,” and “firearm capable of being concealed
16 upon the person” shall apply to and include any device
17 designed to be used as a weapon, from which is expelled
18 a projectile by the force of any explosion, or other form
19 of combustion, and which has a barrel less than 16 inches
20 in length. These terms also include any device which has
21 a barrel 16 inches or more in length which is designed to
22 be interchanged with a barrel less than 16 inches in
23 length.

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

28 (c) As used in Sections 12021, 12021.1, 12070, 12071,
29 12072, 12073, 12078, and 12101 of this code, and Sections
30 8100, 8101, and 8103 of the Welfare and Institutions Code,
31 the term “firearm” includes the frame or receiver of the
32 weapon.

33 (d) For the purposes of Sections 12025 and 12031, the
34 term “firearm” also shall include any rocket, rocket
35 propelled projectile launcher, or similar device
36 containing any explosive or incendiary material whether
37 or not the device is designed for emergency or distress
38 signaling purposes.

39 (e) For purposes of Sections 12070, 12071, and
40 paragraph ~~(7)~~ (8) of subdivision (a), and subdivisions

(b), (c), (d), and (f) of Section 12072, the term “firearm” does not include an unloaded firearm which is defined as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

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

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

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

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

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

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

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

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

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

14 (k) For purposes of Sections 12021, 12021.1, 12025,
15 12070, 12072, 12073, 12078, and 12101 of this code, and
16 Sections 8100, 8101, and 8103 of the Welfare and
17 Institutions Code, notwithstanding the fact that the term
18 “any firearm” may be used in those sections, each firearm
19 or the frame or receiver of the same shall constitute a
20 distinct and separate offense under those sections.

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

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

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

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

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

39 (3) He or she is not a licensed importer of firearms
40 pursuant to Chapter 44 (commencing with Section 921)

1 of Title 18 of the United States Code and the regulations
2 issued pursuant thereto.

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

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

8 (6) He or she moves into this state on or after January
9 1, 1998, as a resident of this state.

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

13 (8) The pistol, revolver, or other firearm capable of
14 being concealed upon the person was not delivered to
15 him or her by a person licensed pursuant to Section 12071
16 who delivered that firearm following the procedures set
17 forth in Section 12071 and subdivision (c) of Section
18 12072.

19 (9) He or she, while a resident of this state, had not
20 previously reported his or her ownership of that pistol,
21 revolver, or other firearm capable of being concealed
22 upon the person to the Department of Justice in a manner
23 prescribed by the department that included information
24 concerning him or her and a description of the firearm.

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

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

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

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

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

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

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

SEC. 4. Section 12026.2 of the Penal Code is amended to read:

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

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

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

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

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

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

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

(7) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show,

1 swap meet, or similar event to which the public is invited,
2 for the purpose of displaying that firearm in a lawful
3 manner.

4 (8) The transportation of a firearm by an authorized
5 employee or agent of a supplier of firearms when going
6 directly to, or coming directly from, a motion picture,
7 television, or video production or entertainment event
8 for the purpose of providing that firearm to an authorized
9 participant to lawfully use as a part of that production or
10 event.

11 (9) The transportation of a firearm by a person when
12 going directly to, or coming directly from, a target range,
13 which holds a regulatory or business license, for the
14 purposes of practicing shooting at targets with that
15 firearm at that target range.

16 (10) The transportation of a firearm by a person when
17 going directly to, or coming directly from, a place
18 designated by a person authorized to issue licenses
19 pursuant to Section 12050 when done at the request of the
20 issuing agency so that the issuing agency can determine
21 whether or not a license should be issued to that person
22 to carry that firearm.

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

27 (12) The transportation of a firearm by a person when
28 going directly to, or coming directly from, a lawful
29 camping activity for the purpose of having that firearm
30 available for lawful personal protection while at the
31 lawful campsite. This paragraph shall not be construed to
32 override the statutory authority granted to the
33 Department of Parks and Recreation or any other state
34 or local governmental agencies to promulgate rules and
35 regulations governing the administration of parks and
36 campgrounds.

37 (13) The transportation of a firearm by a person in
38 order to comply with subdivision (c) or (i) of Section
39 12078 as it pertains to that firearm.

1 (14) The transportation of a firearm by a person in
2 order to utilize subdivision (l) of Section 12078 as it
3 pertains to that firearm.

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

10 (16) The transportation of a firearm by a person in
11 order to utilize ~~paragraph (3)~~ *paragraphs (6), (7), (9),*
12 *(10), and (11)* of subdivision (a) of Section 12078 as it
13 pertains to that firearm.

14 (17) The transportation of a firearm by a person who
15 finds the firearm in order to comply with Article 1
16 (commencing with Section 2080) of Chapter 4 of Division
17 3 of the Civil Code as it pertains to that firearm and if that
18 firearm is being transported to a law enforcement
19 agency, the person gives prior notice to the law
20 enforcement agency that he or she is transporting the
21 firearm to the law enforcement agency.

22 (18) The transportation of a firearm by a person who
23 finds the firearm *or took it from a person committing a*
24 *crime against him or her* and is transporting it to a law
25 enforcement agency for disposition according to law, if he
26 or she gives prior notice to the law enforcement agency
27 that he or she is transporting the firearm to the law
28 enforcement agency for disposition according to law.

29 (19) The transportation of a firearm by a person in
30 order to comply with paragraph (2) of subdivision (f) of
31 Section 12072 as it pertains to that firearm.

32 (20) The transportation of a firearm by a person in
33 order to comply with paragraph (3) of subdivision (f) of
34 Section 12072 as it pertains to that firearm.

35 (21) The transportation of a firearm by a person for the
36 purpose of obtaining an identification number or mark
37 assigned for that firearm from the Department of Justice
38 pursuant to Section 12092.

39 (22) *The transportation of a firearm by a person for the*
40 *purpose of complying with the requirements of Section*



1 12083, provided that if the firearm is being transported to
2 a law enforcement agency for disposition pursuant to
3 Section 12083, he or she gives prior notice to the law
4 enforcement agency that he or she is transporting the
5 firearm to the law enforcement agency for disposition
6 according to Section 12083.

7 (23) The transportation of a firearm by a person for the
8 purpose of complying with the requirements of Section
9 6389 of the Family Code, provided that if the firearm is
10 being transported to a law enforcement agency for
11 disposition pursuant to Section 6389 of the Family Code,
12 he or she gives prior notice to the law enforcement
13 agency that he or she is transporting the firearm to the
14 law enforcement agency for disposition according to
15 Section 6389 of the Family Code.

16 (24) The transportation of a firearm by a person to
17 whom the firearm is being returned pursuant to law to a
18 place where it may legally be kept pursuant to Section
19 12026.

20 (b) In order for a firearm to be exempted under
21 subdivision (a), while being transported to or from a
22 place, the firearm shall be unloaded, kept in a locked
23 container, as defined in subdivision (d), and the course of
24 travel shall include only those deviations between
25 authorized locations as are reasonably necessary under
26 the circumstances.

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

31 (d) As used in this section, “locked container” means
32 a secure container—~~which~~ *that* is fully enclosed and locked
33 by a padlock, key lock, combination lock, or similar
34 locking device. The term “locked container” does not
35 include the utility or glove compartment of a motor
36 vehicle.

37 SEC. 5. Section 12070 of the Penal Code is amended
38 to read:

39 12070. (a) No person shall sell, lease, or transfer
40 firearms unless he or she has been issued a license

1 pursuant to Section 12071. Any person violating this
2 section is guilty of a misdemeanor.

3 (b) Subdivision (a) does not include any of the
4 following:

5 (1) The sale, lease, or transfer of any firearm by a
6 person acting pursuant to operation of law, a court order,
7 or pursuant to the Enforcement of Judgments Law (Title
8 9 (commencing with Section 680.010) of Part 2 of the
9 Code of Civil Procedure), or by a person who liquidates
10 a personal firearm collection to satisfy a court judgment.

11 (2) A person acting pursuant to subdivision (e) of
12 Section 186.22a or subdivision (c) of Section 12028.

13 (3) The sale, lease, or transfer of a firearm by a person
14 who obtains title to the firearm by intestate succession or
15 by bequest ~~or as a surviving spouse pursuant to Chapter~~
16 ~~4 (commencing with Section 13500) of Part 2 of Division~~
17 ~~8 of the Probate Code~~, provided the person disposes of the
18 firearm within 60 days of receipt of the firearm.

19 (4) The infrequent sale, lease, or transfer of firearms.

20 (5) The sale, lease, or transfer of used firearms other
21 than pistols, revolvers, or other firearms capable of being
22 concealed upon the person, at gun shows or events, as
23 specified in subparagraph (B) of paragraph (1) of
24 subdivision (b) of Section 12071, by a person other than
25 a licensee or dealer, provided the person has a valid
26 federal firearms license and a current certificate of
27 eligibility issued by the Department of Justice, as
28 specified in Section 12071, and provided all the sales,
29 leases, or transfers fully comply with subdivision (d) of
30 Section 12072. However, the person shall not engage in
31 the sale, lease, or transfer of used firearms other than
32 pistols, revolvers, or other firearms capable of being
33 concealed upon the person at more than 12 gun shows or
34 events in any calendar year and shall not sell, lease, or
35 transfer more than 15 used firearms other than pistols,
36 revolvers, or other firearms capable of being concealed
37 upon the person at any single gun show or event. In no
38 event shall the person sell more than 75 used firearms
39 other than pistols, revolvers, or other firearms capable of
40 being concealed upon the person in any calendar year.

1 A person described in this paragraph shall be known as
2 a “Gun Show Trader.”

3 The Department of Justice shall adopt regulations to
4 administer this program and shall recover the full costs of
5 administration from fees assessed applicants.

6 As used in this paragraph, the term “used firearm”
7 means a firearm that has been sold previously at retail and
8 is more than three years old.

9 (6) The activities of a law enforcement agency
10 pursuant to Section 12083 or 12084.

11 (7) Deliveries, sales, or transfers of firearms between
12 or to importers and manufacturers of firearms licensed to
13 engage in business pursuant to Chapter 44 (commencing
14 with Section 921) of Title 18 of the United States Code and
15 the regulations issued pursuant thereto.

16 (8) The sale, delivery, or transfer of firearms by
17 manufacturers or importers licensed pursuant to Chapter
18 44 (commencing with Section 921) of Title 18 of the
19 United States Code and the regulations issued pursuant
20 thereto to dealers or wholesalers.

21 (9) Deliveries and transfers of firearms made pursuant
22 to Section 12028, 12028.5, ~~or~~ 12030, or 12032.

23 (10) The loan of a firearm for the purposes of shooting
24 at targets, if the loan occurs on the premises of a target
25 facility which holds a business or regulatory license or on
26 the premises of any club or organization organized for the
27 purposes of practicing shooting at targets upon
28 established ranges, whether public or private, if the
29 firearm is at all times kept within the premises of the
30 target range or on the premises of the club or
31 organization.

32 (11) Sales, deliveries, or transfers of firearms by
33 manufacturers, importers, or wholesalers licensed
34 pursuant to Chapter 44 (commencing with Section 921)
35 of Title 18 of the United States Code and the regulations
36 issued pursuant thereto to persons who reside outside this
37 state who are licensed pursuant to Chapter 44
38 (commencing with Section 921) of Title 18 of the United
39 States Code and the regulations issued pursuant thereto,
40 if the sale, delivery, or transfer is in accordance with

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

4 (12) Sales, deliveries, or transfers of firearms by
5 persons who reside outside this state and are licensed
6 outside this state pursuant to Chapter 44 (commencing
7 with Section 921) of Title 18 of the United States Code and
8 the regulations issued pursuant thereto to wholesalers,
9 manufacturers, or importers, if the sale, delivery, or
10 transfer is in accordance with Chapter 44 (commencing
11 with Section 921) of Title 18 of the United States Code and
12 the regulations issued pursuant thereto.

13 (13) Sales, deliveries, or transfers of firearms by
14 wholesalers to dealers.

15 (14) Sales, deliveries, or transfers of firearms by
16 persons who reside outside this state to persons licensed
17 pursuant to Section 12071, if the sale, delivery, or transfer
18 is in accordance with Chapter 44 (commencing with
19 Section 921) of Title 18 of the United States Code, and the
20 regulations issued pursuant thereto.

21 (15) Sales, deliveries, or transfers of firearms by
22 persons who reside outside this state and are licensed
23 pursuant to Chapter 44 (commencing with Section 921)
24 of Title 18 of the United States Code and the regulations
25 issued pursuant thereto to dealers, if the sale, delivery, or
26 transfer is in accordance with Chapter 44 (commencing
27 with Section 921) of Title 18 of the United States Code and
28 the regulations issued pursuant thereto.

29 (16) The delivery, sale, or transfer of an unloaded
30 firearm by one wholesaler to another wholesaler if that
31 firearm is intended as merchandise in the receiving
32 wholesaler's business.

33 (17) The loan of an unloaded firearm or the loan of a
34 firearm loaded with blank cartridges for use solely as a
35 prop for a motion picture, television, or video production
36 or entertainment or theatrical event.

37 (18) The delivery of an unloaded firearm that is a curio
38 or relic, as defined in Section 178.11 of Title 27 of the Code
39 of Federal Regulations, by a person licensed as a collector
40 pursuant to Chapter 44 (commencing with Section 921)



1 of Title 18 of the United States Code and the regulations
2 issued pursuant thereto with a current certificate of
3 eligibility issued pursuant to Section 12071 to a dealer.

4 (19) *The loan of a firearm made by a licensed private*
5 *investigator licensed pursuant to Chapter 11.3*
6 *(commencing with Section 7512) of Division 3 of the*
7 *Business and Professions Code to an employee thereof*
8 *who has a permit or license to carry a firearm issued to*
9 *him or her by the Department of Consumer Affairs to*
10 *carry a firearm in the course and scope of his or her*
11 *employment.*

12 (20) *The loan of a firearm made by a private patrol*
13 *operator licensed pursuant to Chapter 11.5 (commencing*
14 *with Section 7580) of Division 3 of the Business and*
15 *Professions Code to an employee thereof who has a*
16 *permit or license to carry a firearm issued to him or her*
17 *by the Department of Consumer Affairs to carry a*
18 *firearm in the course and scope of his or her employment.*

19 (21) *The loan of a firearm made by an alarm company*
20 *operator licensed pursuant to Chapter 11.6 (commencing*
21 *with Section 7590) of Division 3 of the Business and*
22 *Professions Code to an employee thereof who has a*
23 *permit or license to carry a firearm issued to him or her*
24 *by the Department of Consumer Affairs to carry a*
25 *firearm in the course and scope of his or her employment.*

26 (22) *Sales, deliveries, or transfers of firearms by a law*
27 *enforcement agency to a wholesaler.*

28 (23) *Sales, deliveries, or transfers of firearms by a law*
29 *enforcement agency to persons who are licensed as*
30 *manufacturers or importers pursuant to Chapter 44*
31 *(commencing with Section 921) of Title 18 of the United*
32 *States Code and the regulations issued pursuant thereto.*

33 (24) *The delivery of a firearm to a law enforcement*
34 *agency by a person who takes possession of a firearm after*
35 *finding that firearm or who took the firearm from a*
36 *person who was committing a crime against him or her.*

37 (c) (1) As used in this section, “infrequent” means:

38 (A) For pistols, revolvers, and other firearms capable
39 of being concealed upon the person, less than six
40 transactions per calendar year. For this purpose,

1 “transaction” means a single sale, lease, or transfer of any
2 number of pistols, revolvers, or other firearms capable of
3 being concealed upon the person.

4 (B) For firearms other than pistols, revolvers, or other
5 firearms capable of being concealed upon the person,
6 occasional and without regularity.

7 (2) As used in this section, “operation of law” includes,
8 but is not limited to, any of the following:

9 (A) The executor or administrator of an estate, if the
10 estate includes firearms.

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

15 (C) A levying officer, as defined in Section 481.140,
16 511.060, or 680.260 of the Code of Civil Procedure.

17 (D) A receiver performing his or her functions as a
18 receiver, if the receivership estate includes firearms.

19 (E) A trustee in bankruptcy performing his or her
20 duties, if the bankruptcy estate includes firearms.

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

24 (G) A transmutation of property between spouses
25 pursuant to Section 850 of the Family Code.

26 (H) Firearms received by the family of a police officer
27 or deputy sheriff from a local agency pursuant to Section
28 50081 of the Government Code.

29 (I) The transfer of a firearm by a law enforcement
30 agency to the person who found the firearm where the
31 delivery is to the person as the finder of the firearm
32 pursuant to Article 1 (commencing with Section 2080) of
33 Chapter 4 of Division 3 of the Civil Code.

34 (J) *The sale, delivery, or transfer of firearms by a*
35 *person who initially obtained title to those firearms as a*
36 *surviving spouse pursuant to Chapter 1 (commencing*
37 *with Section 13500) of Part 2 of Division 8 of the Probate*
38 *Code.*

39 (K) *The sale, delivery, or transfer of firearms that are*
40 *disposed of pursuant to Section 12083.*



1 *SEC. 6. Section 12071 of the Penal Code is amended*
2 *to read:*

3 12071. (a) (1) As used in this chapter, the term
4 “licensee,” “person licensed pursuant to Section 12071,”
5 or “dealer” means a person who has all of the following:

6 (A) A valid federal firearms license.

7 (B) Any regulatory or business license, or licenses,
8 required by local government.

9 (C) A valid seller’s permit issued by the State Board of
10 Equalization.

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

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

15 (F) Is among those recorded in the centralized list
16 specified in subdivision (e).

17 (2) The duly constituted licensing authority of a city,
18 county, or a city and county shall accept applications for,
19 and may grant licenses permitting, licensees to sell
20 firearms at retail within the city, county, or city and
21 county. The duly constituted licensing authority shall
22 inform applicants who are denied licenses of the reasons
23 for the denial in writing.

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

29 (4) A person may request a certificate of eligibility
30 from the Department of Justice and the Department of
31 Justice shall issue a certificate to an applicant if the
32 department’s records indicate that the applicant is not a
33 person who is prohibited from possessing firearms.

34 (5) The department shall adopt regulations to
35 administer the certificate of eligibility program and shall
36 recover the full costs of administering the program by
37 imposing fees assessed to applicants who apply for those
38 certificates.

39 (6) A license granted by the duly constituted licensing
40 authority of any city, county, or city and county, shall be

1 valid for not more than one year from the date of issuance
2 and shall be in one of the following forms:

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

4 (B) A regulatory or business license that states on its
5 face “Valid for Retail Sales of Firearms” and is endorsed
6 by the signature of the issuing authority.

7 (C) A letter from the duly constituted licensing
8 authority having primary jurisdiction for the applicant’s
9 intended business location stating that the jurisdiction
10 does not require any form of regulatory or business
11 license or does not otherwise restrict or regulate the sale
12 of firearms.

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

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

18 (1) (A) Except as provided in subparagraphs (B) and
19 (C), the business shall be conducted only in the buildings
20 designated in the license.

21 (B) A person licensed pursuant to subdivision (a) may
22 take possession of firearms and commence preparation of
23 registers for the sale, delivery, or transfer of firearms at
24 gun shows or events, as defined in Section 178.100 of Title
25 27 of the Code of Federal Regulations, or its successor, if
26 the gun show or event is not conducted from any
27 motorized or towed vehicle. A person conducting
28 business pursuant to this subparagraph shall be entitled
29 to conduct business as authorized herein at any gun show
30 or event in the state without regard to the jurisdiction
31 within this state that issued the license pursuant to
32 subdivision (a), provided the person complies with (i) all
33 applicable laws, including, but not limited to, the waiting
34 period specified in subparagraph (A) of paragraph (3),
35 and (ii) all applicable local laws, regulations, and fees, if
36 any.

37 A person conducting business pursuant to this
38 subparagraph shall publicly display his or her license
39 issued pursuant to subdivision (a), or a facsimile thereof,

1 at any gun show or event, as specified in this
2 subparagraph.

3 (C) A person licensed pursuant to subdivision (a) may
4 engage in the sale and transfer of firearms other than
5 pistols, revolvers, or other firearms capable of being
6 concealed upon the person, at events specified in
7 subdivision (g) of Section 12078, subject to the
8 prohibitions and restrictions contained in that
9 subdivision.

10 A person licensed pursuant to subdivision (a) also may
11 accept delivery of firearms other than pistols, revolvers,
12 or other firearms capable of being concealed upon the
13 person, outside the building designated in the license,
14 provided the firearm is being donated for the purpose of
15 sale or transfer at an auction or similar event specified in
16 subdivision (g) of Section 12078.

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

20 (i) The building designated in the license.

21 (ii) The places specified in subparagraph (B) or (C).

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

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

29 (3) No firearm shall be delivered:

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

37 (B) Unless unloaded and securely wrapped or
38 unloaded and in a locked container.

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

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

8 (4) No pistol, revolver, or other firearm or imitation
9 thereof capable of being concealed upon the person, or
10 placard advertising the sale or other transfer thereof, shall
11 be displayed in any part of the premises where it can
12 readily be seen from the outside.

13 (5) The licensee shall agree to and shall act properly
14 and promptly in processing firearms transactions
15 pursuant to Section 12082.

16 (6) The licensee shall comply with Sections 12073,
17 12076, and 12077, subdivisions (a) and (b) of Section
18 12072, and subdivision (a) of Section 12316.

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

22 (A) "IF YOU LEAVE A LOADED FIREARM
23 WHERE A CHILD OBTAINS AND IMPROPERLY
24 USES IT, YOU MAY BE FINED OR SENT TO PRISON."

25 (B) "IF YOU KEEP A LOADED FIREARM, OR A
26 PISTOL, REVOLVER, OR OTHER FIREARM
27 CAPABLE OF BEING CONCEALED UPON THE
28 PERSON, WITHIN ANY PREMISES UNDER YOUR
29 CUSTODY OR CONTROL, AND A PERSON UNDER 16
30 GAINS ACCESS TO THE FIREARM, YOU MAY BE
31 GUILTY OF A MISDEMEANOR OR A FELONY,
32 UNLESS YOU STORED THE FIREARM IN A LOCKED
33 CONTAINER, OR LOCKED THE FIREARM WITH A
34 LOCKING DEVICE, TO KEEP IT FROM
35 TEMPORARILY FUNCTIONING."

36 (C) "DISCHARGING FIREARMS IN POORLY
37 VENTILATED AREAS, CLEANING FIREARMS, OR
38 HANDLING AMMUNITION MAY RESULT IN
39 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO
40 CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM,



1 AND OTHER SERIOUS PHYSICAL INJURY. HAVE
2 ADEQUATE VENTILATION AT ALL TIMES. WASH
3 HANDS THOROUGHLY AFTER EXPOSURE.”

4 (D) “FEDERAL REGULATIONS PROVIDE THAT
5 IF YOU DO NOT TAKE PHYSICAL POSSESSION OF
6 THE FIREARM THAT YOU ARE ACQUIRING
7 OWNERSHIP OF WITHIN 30 DAYS AFTER YOU
8 COMPLETE THE INITIAL BACKGROUND CHECK
9 PAPERWORK, THEN YOU HAVE TO GO THROUGH
10 THE BACKGROUND CHECK PROCESS A SECOND
11 TIME IN ORDER TO TAKE PHYSICAL POSSESSION
12 OF THAT FIREARM.”

13 (E) “NO PERSON SHALL MAKE AN
14 APPLICATION TO PURCHASE MORE THAN ONE
15 PISTOL, REVOLVER, OR OTHER FIREARM
16 CAPABLE OF BEING CONCEALED UPON THE
17 PERSON WITHIN ANY 30-DAY PERIOD AND NO
18 DELIVERY SHALL BE MADE TO ANY PERSON WHO
19 HAS MADE AN APPLICATION TO PURCHASE MORE
20 THAN ONE PISTOL, REVOLVER, OR OTHER
21 FIREARM CAPABLE OF BEING CONCEALED UPON
22 THE PERSON WITHIN ANY 30-DAY PERIOD.”

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

28 (9) Commencing July 1, 1992, the licensee shall offer
29 to provide the purchaser or transferee of a firearm, or
30 person being loaned a firearm, with a copy of the
31 pamphlet described in Section 12080 and may add the
32 cost of the pamphlet, if any, to the sales price of the
33 firearm.

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

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

38 (A) All charges required by governmental agencies
39 for processing firearm transfers required by Sections
40 12076, 12082, and 12806.

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

3 (12) The licensee shall not misstate the amount of fees
4 charged by a governmental agency pursuant to Sections
5 12076, 12082, and 12806.

6 (13) The licensee shall report the loss or theft of any
7 firearm that is merchandise of the licensee, any firearm
8 that the licensee takes possession of pursuant to Section
9 12082, or any firearm kept at the licensee's place of
10 business within 48 hours of discovery to the appropriate
11 law enforcement agency in the city, county, or city and
12 county where the licensee's business premises are
13 located.

14 (14) In a city and county, or in the unincorporated
15 area of a county with a population of 200,000 persons or
16 more according to the most recent federal decennial
17 census or within a city with a population of 50,000 persons
18 or more according to the most recent federal decennial
19 census, any time the licensee is not open for business, the
20 licensee shall store all firearms kept in his or her licensed
21 place of business using one of the following methods as to
22 each particular firearm:

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

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

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

35 (15) The licensing authority in an unincorporated area
36 of a county with a population less than 200,000 persons
37 according to the most recent federal decennial census or
38 within a city with a population of less than 50,000 persons
39 according to the most recent federal decennial census

1 may impose the requirements specified in paragraph
2 (14).

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

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

12 (18) (A) On the date of receipt, the licensee shall
13 report to the Department of Justice in a format
14 prescribed by the department the acquisition by the
15 licensee of the ownership of a pistol, revolver, or other
16 firearm capable of being concealed upon the person.

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

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

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

23 (iii) The dealer is also licensed as a secondhand dealer
24 pursuant to Article 4 (commencing with Section 21625)
25 of Chapter 9 of Division 8 of the Business and Professions
26 Code.

27 (iv) The dealer acquired the firearm from a person
28 who is licensed as a manufacturer or importer to engage
29 in those activities pursuant to Chapter 44 (commencing
30 with Section 921) of Title 18 of the United States Code and
31 any regulations issued pursuant thereto.

32 (v) The dealer acquired the firearm from a person
33 who resides outside this state who is licensed pursuant to
34 Chapter 44 (commencing with Section 921) of Title 18 of
35 the United States Code and any regulations issued
36 pursuant thereto.

37 (19) The licensee shall forward in a format prescribed
38 by the Department of Justice, information as required by
39 the department on any firearm that is not delivered

1 within the time period set forth in Section 178.102 (c) of
2 Title 27 of the Code of Federal Regulations.

3 (20) (A) *Until July 1, 2003, if required by the*
4 *Department of Justice, the licensee shall report in a*
5 *manner and format prescribed by the department the*
6 *date and time that the licensee delivered a pistol,*
7 *revolver, or other firearm capable of being concealed*
8 *upon the person to the purchaser or transferee of that*
9 *firearm or the person being loaned the firearm.*

10 (B) *Commencing July 1, 2003, the licensee shall report*
11 *in a manner and format prescribed by the Department of*
12 *Justice to the department the date and time that the*
13 *licensee delivered a pistol, revolver, or other firearm*
14 *capable of being concealed upon the person to the*
15 *purchaser or transferee of that firearm or the person*
16 *being loaned the firearm.*

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

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

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

22 (2) As used in this article, a “basic firearms safety
23 certificate” means a basic firearms certificate issued to
24 the purchaser, transferee, or person being loaned the
25 firearm by the Department of Justice pursuant to Article
26 8 (commencing with Section 12800) of Chapter 6.

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

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

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

33 (ii) A windowed metal door that is equipped with both
34 a dead bolt and a doorknob lock. If the window has an
35 opening of five inches or more measured in any direction,
36 the window shall be covered with steel bars of at least
37 one-half inch diameter or metal grating of at least nine
38 gauge affixed to the exterior or interior of the door.



1 (iii) A metal grate that is padlocked and affixed to the
2 licensee's premises independent of the door and
3 doorframe.

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

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

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

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

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

14 (4) As used in this section, "licensed premises,"
15 "licensed place of business," "licensee's place of
16 business," or "licensee's business premises" means the
17 building designated in the license.

18 (5) For purposes of paragraph (17) of subdivision (b):

19 (A) A "firearms transaction record" is a record
20 containing the same information referred to in
21 subdivision (a) of Section 178.124, Section 178.124a, and
22 subdivision (e) of Section 178.125 of Title 27 of the Code
23 of Federal Regulations.

24 (B) A licensee shall be in compliance with the
25 provisions of paragraph (17) of subdivision (b) if he or she
26 maintains and makes available for inspection during
27 business hours to any peace officer, authorized local law
28 enforcement employee, or Department of Justice
29 employee designated by the Attorney General, upon the
30 presentation of proper identification, the bound book
31 containing the same information referred to in Section
32 178.124a and subdivision (e) of Section 178.125 of Title 27
33 of the Code of Federal Regulations and the records
34 referred to in subdivision (a) of Section 178.124 of Title
35 27 of the Code of Federal Regulations.

36 (d) Upon written request from a licensee, the
37 licensing authority may grant an exemption from
38 compliance with the requirements of paragraph (14) of
39 subdivision (b) if the licensee is unable to comply with
40 those requirements because of local ordinances,

1 covenants, lease conditions, or similar circumstances not
2 under the control of the licensee.

3 (e) Except as otherwise provided in this subdivision,
4 the Department of Justice shall keep a centralized list of
5 all persons licensed pursuant to subparagraphs (A) to
6 (E), inclusive, of paragraph (1) of subdivision (a). The
7 department may remove from this list any person who
8 knowingly or with gross negligence violates this article.
9 Upon removal of a dealer from this list, notification shall
10 be provided to local law enforcement and licensing
11 authorities in the jurisdiction where the dealer's business
12 is located. The department shall make information about
13 an individual dealer available, upon request, for one of
14 the following purposes only:

15 (1) For law enforcement purposes.

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

21 (3) When information is requested by a person
22 promoting, sponsoring, operating, or otherwise
23 organizing a show or event as defined in Section 178.100
24 of Title 27 of the Code of Federal Regulations, or its
25 successor, who possesses a valid certificate of eligibility
26 issued pursuant to Section 12071.1, if that information is
27 requested by the person to determine the eligibility of a
28 prospective participant in a gun show or event to conduct
29 transactions as a firearms dealer pursuant to
30 subparagraph (B) of paragraph (1) of subdivision (b).
31 Information provided pursuant to this paragraph shall be
32 limited to information necessary to corroborate an
33 individual's current license status.

34 (f) The Department of Justice may inspect dealers to
35 ensure compliance with this article. The department may
36 assess an annual fee, not to exceed eighty-five dollars
37 (\$85), to cover the reasonable cost of maintaining the list
38 described in subdivision (e), including the cost of
39 inspections. Dealers whose place of business is in a
40 jurisdiction that has adopted an inspection program to

1 ensure compliance with firearms law shall be exempt
2 from that portion of the department's fee that relates to
3 the cost of inspections. The applicant is responsible for
4 providing evidence to the department that the
5 jurisdiction in which the business is located has the
6 inspection program.

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

16 (h) Paragraph (14) or (15) of subdivision (b) shall not
17 apply to a licensee organized as a nonprofit public benefit
18 or mutual benefit corporation organized pursuant to Part
19 2 (commencing with Section 5110) or Part 3
20 (commencing with Section 7110) of Division 2 of the
21 Corporations Code, if both of the following conditions are
22 satisfied:

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

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

32 *SEC. 7. Section 12072 of the Penal Code is amended*
33 *to read:*

34 12072. (a) (1) No person, corporation, or firm shall
35 knowingly supply, deliver, sell, or give possession or
36 control of a firearm to any person within any of the classes
37 prohibited by Section 12021 or 12021.1.

38 (2) No person, corporation, or dealer shall sell, supply,
39 deliver, or give possession or control of a firearm to any
40 person whom he or she has cause to believe to be within

1 any of the classes prohibited by Section 12021 or 12021.1
2 of this code or Section 8100 or 8103 of the Welfare and
3 Institutions Code.

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

6 (B) Subparagraph (A) shall not apply to or affect those
7 circumstances set forth in subdivision (p) of Section
8 12078.

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

15 (A) Knowledge that the firearm is to be subsequently
16 loaned, sold, or transferred to avoid the provisions of
17 subdivision (c) or (d).

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

21 (5) No person, corporation, or dealer shall acquire a
22 firearm for the purpose of selling, transferring, or loaning
23 the firearm, if the person, corporation, or dealer has
24 either of the following:

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

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

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

30 (ii) The requirements of any exemption to the
31 provisions of subdivision (d).

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

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

36 (8) No person shall sell or otherwise transfer his or her
37 ownership in a pistol, revolver, or other firearm capable
38 of being concealed upon the person unless the firearm
39 bears either:



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

4 (B) The identification number or mark assigned to the
5 firearm by the Department of Justice pursuant to Section
6 12092.

7 (9) (A) No person shall make an application to
8 purchase more than one pistol, revolver, or other firearm
9 capable of being concealed upon the person within any
10 30-day period.

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

13 (i) Any law enforcement agency.

14 (ii) Any agency duly authorized to perform law
15 enforcement duties.

16 (iii) Any state or local correctional facility.

17 (iv) Any private security company licensed to do
18 business in California.

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

25 (vi) Any motion picture, television, or video
26 production company or entertainment or theatrical
27 company whose production by its nature involves the use
28 of a firearm.

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

32 (viii) Any transaction conducted through a licensed
33 dealer pursuant to Section 12082.

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

36 (x) Any person who is licensed as a collector pursuant
37 to Chapter 44 (commencing with Section 921) of Title 18
38 of the United States Code and the regulations issued
39 pursuant thereto and who has a current certificate of

1 eligibility issued to him or her by the Department of
2 Justice pursuant to Section 12071.

3 (xi) The exchange of a pistol, revolver, or other
4 firearm capable of being concealed upon the person
5 where the dealer purchased that firearm from the person
6 seeking the exchange within the 30-day period
7 immediately preceding the date of exchange or
8 replacement.

9 (xii) The replacement of a pistol, revolver, or other
10 firearm capable of being concealed upon the person
11 when the person's pistol, revolver, or other firearm
12 capable of being concealed upon the person was lost or
13 stolen, and the person reported that firearm lost or stolen
14 prior to the completion of the application to purchase to
15 any local law enforcement agency of the city, county, or
16 city and county in which he or she resides.

17 (xiii) The return of any pistol, revolver, or other
18 firearm capable of being concealed upon the person to its
19 owner.

20 *(10) The dealer shall comply with paragraph (20) of*
21 *subdivision (b) of Section 12071.*

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

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

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

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

39 (3) Unless the purchaser, transferee, or person being
40 loaned the firearm presents clear evidence of his or her

1 identity and age, as defined in Section 12071, to the
2 dealer.

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

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

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

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

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

27 (2) A law enforcement agency pursuant to Section
28 12084.

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

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

35 (2) Knowingly grading the examination falsely.

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

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

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

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

5 (7) Reference to materials during the examination
6 and cheating by the applicant.

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

10 (f) (1) No person who is licensed pursuant to Chapter
11 44 (commencing with Section 921) of Title 18 of the
12 United States Code shall deliver, sell, or transfer a firearm
13 to a person who is licensed pursuant to Chapter 44
14 (commencing with Section 921) of Title 18 of the United
15 States Code and whose licensed premises are located in
16 this state unless one of the following conditions is met:

17 (A) The person presents proof of licensure pursuant to
18 Section 12071 to that person.

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

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

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

32 (ii) Sell or transfer the firearm in accordance with the
33 provisions of subdivision (d) or in accordance with the
34 provisions of an exemption from subdivision (d).

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

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

39 (B) If the personal handgun importer sells or transfers
40 the pistol, revolver, or other firearm capable of being

1 concealed upon the person pursuant to subdivision (d) of
2 Section 12072 and the sale or transfer cannot be
3 completed by the dealer to the purchaser or transferee,
4 and the firearm can be returned to the personal handgun
5 importer, the personal handgun importer shall have
6 complied with the provisions of this paragraph.

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

13 (D) (i) On and after January 1, 1998, the department
14 shall conduct a public education and notification program
15 regarding this paragraph to ensure a high degree of
16 publicity of the provisions of this paragraph.

17 (ii) As part of the public education and notification
18 program described in this subparagraph, the department
19 shall do all of the following:

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

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

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

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

1 concealed upon the person to a law enforcement agency
2 in order to comply with subparagraph (A), the person
3 should give prior notice to the law enforcement agency
4 that he or she is doing so, and that in any event, the pistol,
5 revolver, or other firearm capable of being concealed
6 upon the person should be transported unloaded and in
7 a locked container.

8 (iii) Any costs incurred by the department to
9 implement this paragraph shall be absorbed by the
10 department within its existing budget and the fees in the
11 Dealers' Record of Sale Special Account allocated for
12 implementation of this subparagraph pursuant to Section
13 12076.

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

32 (4) (A) It is the intent of the Legislature that a
33 violation of paragraph (2) or (3) shall not constitute a
34 "continuing offense" and the statute of limitations for
35 commencing a prosecution for a violation of paragraph
36 (2) or (3) commences on the date that the applicable
37 grace period specified in paragraph (2) or (3) expires.

38 (B) Paragraphs (2) and (3) shall not apply to a person
39 who reports his or her ownership of a pistol, revolver, or
40 other firearm capable of being concealed upon the

1 person after the applicable grace period specified in
2 paragraph (2) or (3) expires if evidence of that violation
3 arises only as the result of the person submitting the
4 report described in paragraph (2) or (3).

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

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

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

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

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

20 (D) If the defendant is in a prohibited class described
21 in Section 12021 or 12021.1 of this code or Section 8100 or
22 8103 of the Welfare and Institutions Code.

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

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

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

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

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

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

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

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

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

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

15 (A) A violation of paragraph (2) of subdivision (a) or
16 subdivision (b).

17 (B) The firearm transferred in violation of paragraph
18 (2) of subdivision (a) or subdivision (b) is used in the
19 subsequent commission of a felony for which a conviction
20 is obtained and the prescribed sentence is imposed.

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

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

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

29 (D) For purposes of this paragraph each application to
30 purchase a pistol, revolver, or other firearm capable of
31 being concealed upon the person in violation of
32 paragraph (9) of subdivision (a) shall be deemed a
33 separate offense.

34 *SEC. 8. Section 12073 of the Penal Code is amended*
35 *to read:*

36 12073. (a) As required by the Department of Justice,
37 every dealer shall keep a register or record of electronic
38 or telephonic transfer in which shall be entered the
39 information prescribed in Section 12077.

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

(1) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(2) The delivery, sale, or transfer of an unloaded firearm by a dealer to another dealer if that firearm is intended as merchandise in the receiving dealer's business upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

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

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

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

(6) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to himself or herself.

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

1 premises of the target range or on the premises of the club
2 or organization.

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

5 (9) *The delivery, sale, or transfer of an unloaded*
6 *firearm by a person licensed pursuant to Section 12071, to*
7 *an authorized representative of a city, city and county,*
8 *county, the state, or the federal government for those*
9 *governmental agencies where the government entity is*
10 *acquiring the weapon as part of an authorized, voluntary*
11 *program where the entity is buying or receiving weapons*
12 *from a private individual, or a person licensed pursuant*
13 *to Section 12071.*

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

15 *SEC. 9. Section 12076 of the Penal Code is amended*
16 *to read:*

17 12076. (a) (1) Before January 1, 1998, the
18 department shall determine the method by which a
19 dealer shall submit firearm purchaser information to the
20 department and the information shall be in one of the
21 following formats:

22 (A) Submission of the register described in Section
23 12077.

24 (B) Electronic or telephonic transfer of the
25 information contained in the register described in
26 Section 12077.

27 (2) On or after January 1, 1998, electronic or
28 telephonic transfer, including voice or facsimile
29 transmission, shall be the exclusive means by which
30 purchaser information is transmitted to the department.

31 (b) (1) Where the register is used, the purchaser of
32 any firearm shall be required to present clear evidence of
33 his or her identity and age, as defined in Section 12071, to
34 the dealer, and the dealer shall require him or her to sign
35 his or her current legal name and affix his or her residence
36 address and date of birth to the register in quadruplicate.
37 The salesperson shall affix his or her signature to the
38 register in quadruplicate as a witness to the signature and
39 identification of the purchaser. Any person furnishing a
40 fictitious name or address or knowingly furnishing any

1 incorrect information or knowingly omitting any
2 information required to be provided for the register and
3 any person violating any provision of this section is guilty
4 of a misdemeanor.

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

18 (3) Two copies of the original sheet of the register, on
19 the date of the application to purchase, shall be placed in
20 the mail, postage prepaid, and properly addressed to the
21 Department of Justice in Sacramento.

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

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

27 (c) (1) Where the electronic or telephonic transfer of
28 applicant information is used, the purchaser shall be
29 required to present clear evidence of his or her identity
30 and age, as defined in Section 12071, to the dealer, and the
31 dealer shall require him or her to sign his or her current
32 legal name to the record of electronic or telephonic
33 transfer. The salesperson shall affix his or her signature to
34 the record of electronic or telephonic transfer as a witness
35 to the signature and identification of the purchaser. Any
36 person furnishing a fictitious name or address or
37 knowingly furnishing any incorrect information or
38 knowingly omitting any information required to be
39 provided for the electronic or telephone transfer and any

1 person violating any provision of this section is guilty of
2 a misdemeanor.

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

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

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

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

27 (d) (1) The department shall examine its records, as
28 well as those records that it is authorized to request from
29 the State Department of Mental Health pursuant to
30 Section 8104 of the Welfare and Institutions Code, in
31 order to determine if the purchaser is a person described
32 in Section 12021, 12021.1, or subparagraph (A) of
33 paragraph (9) of subdivision (a) of Section 12072 of this
34 code or Section 8100 or 8103 of the Welfare and
35 Institutions Code.

36 (2) To the extent that funding is available, the
37 Department of Justice may participate in the National
38 Instant Criminal Background Check System (NICS), as
39 described in subsection (t) of Section 922 of Title 18 of the
40 United States Code, and, if that participation is

1 implemented, shall notify the dealer and the chief of the
2 police department of the city or city and county in which
3 the sale was made, or if the sale was made in a district in
4 which there is no municipal police department, the
5 sheriff of the county in which the sale was made, that the
6 purchaser is a person prohibited from acquiring a firearm
7 under federal law.

8 (3) If the department determines that the purchaser
9 is a person described in Section 12021, 12021.1, or
10 subparagraph (A) of paragraph (9) of subdivision (a) of
11 Section 12072 of this code or Section 8100 or 8103 of the
12 Welfare and Institutions Code, it shall immediately notify
13 the dealer and the chief of the police department of the
14 city or city and county in which the sale was made, or if
15 the sale was made in a district in which there is no
16 municipal police department, the sheriff of the county in
17 which the sale was made, of that fact.

18 (4) If the department determines that the copies of
19 the register submitted to it pursuant to paragraph (3) of
20 subdivision (b) contain any blank spaces or inaccurate,
21 illegible, or incomplete information, preventing
22 identification of the purchaser or the pistol, revolver, or
23 other firearm to be purchased, or if any fee required
24 pursuant to subdivision (e) is not submitted by the dealer
25 in conjunction with submission of copies of the register,
26 the department may notify the dealer of that fact. Upon
27 notification by the department, the dealer shall submit
28 corrected copies of the register to the department, or
29 shall submit any fee required pursuant to subdivision (e),
30 or both, as appropriate and, if notification by the
31 department is received by the dealer at any time prior to
32 delivery of the firearm to be purchased, the dealer shall
33 withhold delivery until the conclusion of the waiting
34 period described in Sections 12071 and 12072.

35 (5) If the department determines that the information
36 transmitted to it pursuant to subdivision (c) contains
37 inaccurate or incomplete information preventing
38 identification of the purchaser or the pistol, revolver, or
39 other firearm capable of being concealed upon the
40 person to be purchased, or if the fee required pursuant to

1 subdivision (e) is not transmitted by the dealer in
2 conjunction with transmission of the electronic or
3 telephonic record, the department may notify the dealer
4 of that fact. Upon notification by the department, the
5 dealer shall transmit corrections to the record of
6 electronic or telephonic transfer to the department, or
7 shall transmit any fee required pursuant to subdivision
8 (e), or both, as appropriate, and if notification by the
9 department is received by the dealer at any time prior to
10 delivery of the firearm to be purchased, the dealer shall
11 withhold delivery until the conclusion of the waiting
12 period described in Sections 12071 and 12072.

13 (e) The Department of Justice may require the dealer
14 to charge each firearm purchaser a fee not to exceed
15 fourteen dollars (\$14), except that the fee may be
16 increased at a rate not to exceed any increase in the
17 California Consumer Price Index as compiled and
18 reported by the California Department of Industrial
19 Relations. The fee shall be no more than is sufficient to
20 reimburse all of the following, and is not to be used to
21 directly fund or as a loan to fund any other program:

22 (1) (A) The department for the cost of furnishing this
23 information.

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

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

31 (3) The State Department of Mental Health for the
32 costs resulting from the requirements imposed by Section
33 8104 of the Welfare and Institutions Code.

34 (4) Local mental hospitals, sanitariums, and
35 institutions for state-mandated local costs resulting from
36 the reporting requirements imposed by Section 8105 of
37 the Welfare and Institutions Code.

38 (5) Local law enforcement agencies for
39 state-mandated local costs resulting from the notification



1 requirements set forth in subdivision (a) of Section 6385
2 of the Family Code.

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

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

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

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

16 The fee established pursuant to this subdivision shall
17 not exceed the sum of the actual processing costs of the
18 department, the estimated reasonable costs of the local
19 mental health facilities for complying with the reporting
20 requirements imposed by paragraph (2) of this
21 subdivision, the costs of the State Department of Mental
22 Health for complying with the requirements imposed by
23 paragraph (3) of this subdivision, the estimated
24 reasonable costs of local mental hospitals, sanitariums,
25 and institutions for complying with the reporting
26 requirements imposed by paragraph (4) of this
27 subdivision, the estimated reasonable costs of local law
28 enforcement agencies for complying with the
29 notification requirements set forth in subdivision (a) of
30 Section 6385 of the Family Code, the estimated
31 reasonable costs of local law enforcement agencies for
32 complying with the notification requirements set forth in
33 subdivision (c) of Section 8105 of the Welfare and
34 Institutions Code imposed by paragraph (6) of this
35 subdivision, the estimated reasonable costs of the
36 Department of Food and Agriculture for the costs
37 resulting from the notification provisions set forth in
38 Section 5343.5 of the Food and Agricultural Code, and the
39 estimated reasonable costs of the department for the costs

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

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

10 (A) For the actual costs associated with the
11 preparation, sale, processing, and filing of forms or
12 reports required or utilized pursuant to Section 12078 if
13 neither a dealer nor a law enforcement agency acting
14 pursuant to Section 12084 is filing the form or report.

15 (B) For the actual processing costs associated with the
16 submission of a Dealers' Record of Sale to the department
17 by a dealer or of the submission of a LEFT to the
18 department by a law enforcement agency acting
19 pursuant to Section 12084 if the waiting period described
20 in Sections 12071, 12072, and 12084 does not apply.

21 (C) For the actual costs associated with the
22 preparation, sale, processing, and filing of reports utilized
23 pursuant to *paragraph (10) of subdivision (a) or*
24 *subdivision (l) of Section 12078 or paragraph (18) of*
25 *subdivision (b) of Section 12071, or clause (i) of*
26 *subparagraph (A) of paragraph (2) of subdivision (f) of*
27 *Section 12072, or paragraph (3) of subdivision (f) of*
28 *Section 12072.*

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

32 (E) *For the actual costs associated with reporting*
33 *information pursuant to paragraph (20) of subdivision*
34 *(b) of Section 12071.*

35 (F) *For the actual costs associated with reporting*
36 *information pursuant to paragraph (8) of subdivision (d)*
37 *of Section 12084.*

38 (2) If the department charges a fee pursuant to
39 subparagraph (B) of paragraph (1) of this subdivision, it



1 shall be charged in the same amount to all categories of
2 transaction that are within that subparagraph.

3 (3) Any costs incurred by the Department of Justice to
4 implement this subdivision shall be reimbursed from fees
5 collected and charged pursuant to this subdivision. No
6 fees shall be charged to the dealer pursuant to subdivision
7 (e) or to a law enforcement agency acting pursuant to
8 paragraph (6) of subdivision (d) of Section 12084 for costs
9 incurred for implementing this subdivision.

10 (g) All money received by the department pursuant to
11 this section shall be deposited in the Dealers' Record of
12 Sale Special Account of the General Fund, which is
13 hereby created, to be available, upon appropriation by
14 the Legislature, for expenditure by the department to
15 offset the costs incurred pursuant to this section,
16 subparagraph (D) of paragraph (2) of subdivision (f) of
17 Section 12072, and Sections 12289 and 12809.

18 (h) Where the electronic or telephonic transfer of
19 applicant information is used, the department shall
20 establish a system to be used for the submission of the fees
21 described in subdivision (e) to the department.

22 (i) (1) Only one fee shall be charged pursuant to this
23 section for a single transaction on the same date for the
24 sale of any number of firearms that are not pistols,
25 revolvers, or other firearms capable of being concealed
26 upon the person or for the taking of possession of those
27 firearms.

28 (2) In a single transaction on the same date for the
29 delivery of any number of firearms that are pistols,
30 revolvers, or other firearms capable of being concealed
31 upon the person, the department shall charge a reduced
32 fee pursuant to this section for the second and subsequent
33 firearms that are part of that transaction.

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

39 (k) Whenever the Department of Justice acts
40 pursuant to this section as it pertains to firearms other

1 than pistols, revolvers, or other firearms capable of being
2 concealed upon the person, the department's acts or
3 omissions shall be deemed to be discretionary within the
4 meaning of the California Tort Claims Act pursuant to
5 Division 3.6 (commencing with Section 810) of Title 1 of
6 the Government Code.

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

9 (1) "Purchaser" means the purchaser or transferee of
10 a firearm or a 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 (4) "Seller" means, if the transaction is being
15 conducted pursuant to Section 12082, the person selling,
16 loaning, or transferring the firearm.

17 *SEC. 10. Section 12077 of the Penal Code is amended*
18 *to read:*

19 12077. (a) The Department of Justice shall prescribe
20 the form of the register and the record of electronic or
21 telephonic transfer pursuant to Section 12074.

22 (b) For pistols, revolvers, and other firearms capable
23 of being concealed upon the person, information
24 contained in the register or record of electronic or
25 telephonic transfer shall be the date and time of sale,
26 make of firearm, peace officer exemption status pursuant
27 to subdivision (a) of Section 12078 and the agency name,
28 dealer waiting period exemption pursuant to subdivision
29 (n) of Section 12078, dangerous weapons permitholder
30 waiting period exemption pursuant to subdivision (r) of
31 Section 12078, curio and relic waiting period exemption
32 pursuant to subdivision (t) of Section 12078, *any*
33 *information required for the purposes of complying with*
34 *Section 12083*, California Firearms Dealer number issued
35 pursuant to Section 12071, purchaser's basic firearms
36 safety certificate number issued pursuant to Sections
37 12805 and 12809, manufacturer's name if stamped on the
38 firearm, model name or number, if stamped on the
39 firearm, if applicable, serial number, other number (if
40 more than one serial number is stamped on the firearm),

1 any identification number or mark assigned to the
 2 firearm pursuant to Section 12092, caliber, type of
 3 firearm, if the firearm is new or used, barrel length, color
 4 of the firearm, full name of purchaser, purchaser's
 5 complete date of birth, purchaser's local address, if
 6 current address is temporary, complete permanent
 7 address of purchaser, identification of purchaser,
 8 purchaser's place of birth (state or country), purchaser's
 9 complete telephone number, purchaser's occupation,
 10 purchaser's sex, purchaser's physical description, all legal
 11 names and aliases ever used by the purchaser, yes or no
 12 answer to questions that prohibit purchase including, but
 13 not limited to, conviction of a felony as described in
 14 Section 12021 or an offense described in Section 12021.1,
 15 the purchaser's status as a person described in Section
 16 8100 of the Welfare and Institutions Code, whether the
 17 purchaser is a person who has been adjudicated by a court
 18 to be a danger to others or found not guilty by reason of
 19 insanity, whether the purchaser is a person who has been
 20 found incompetent to stand trial or placed under
 21 conservatorship by a court pursuant to Section 8103 of the
 22 Welfare and Institutions Code, signature of purchaser,
 23 signature of salesperson (as a witness to the purchaser's
 24 signature), name and complete address of the dealer or
 25 firm selling the firearm as shown on the dealer's license,
 26 the establishment number, if assigned, the dealer's
 27 complete business telephone number, any information
 28 required by Section 12082, any information required to
 29 determine whether or not paragraph (6) of subdivision
 30 (c) of Section 12072 applies, *whether or not the purchaser*
 31 *desires a registration card issued pursuant to subdivision*
 32 *(e) of Section 11106 to be issued to him or her*, and a
 33 statement of the penalties for any person signing a
 34 fictitious name or address or for knowingly furnishing any
 35 incorrect information or for knowingly omitting any
 36 information required to be provided for the register.

37 (c) For firearms other than pistols, revolvers, or other
 38 firearms capable of being concealed upon the person,
 39 information contained in the register or record of
 40 electronic or telephonic transfer shall be the date and



1 time of sale, peace officer exemption status pursuant to
2 subdivision (a) of Section 12078 and the agency name,
3 auction or event waiting period exemption pursuant to
4 subdivision (g) of Section 12078, California Firearms
5 Dealer number issued pursuant to Section 12071,
6 dangerous weapons permitholder waiting period
7 exemption pursuant to subdivision (r) of Section 12078,
8 curio and relic waiting period exemption pursuant to
9 paragraph (1) of subdivision (t) of Section 12078, *any*
10 *information required for the purposes of complying with*
11 *Section 12083*, full name of purchaser, purchaser's
12 complete date of birth, purchaser's local address, if
13 current address is temporary, complete permanent
14 address of purchaser, identification of purchaser,
15 purchaser's place of birth (state or country), purchaser's
16 complete telephone number, purchaser's occupation,
17 purchaser's sex, purchaser's physical description, all legal
18 names and aliases ever used by the purchaser, yes or no
19 answer to questions that prohibit purchase, including, but
20 not limited to, conviction of a felony as described in
21 Section 12021 or an offense described in Section 12021.1,
22 the purchaser's status as a person described in Section
23 8100 of the Welfare and Institutions Code, whether the
24 purchaser is a person who has been adjudicated by a court
25 to be a danger to others or found not guilty by reason of
26 insanity, whether the purchaser is a person who has been
27 found incompetent to stand trial or placed under
28 conservatorship by a court pursuant to Section 8103 of the
29 Welfare and Institutions Code, signature of purchaser,
30 signature of salesperson (as a witness to the purchaser's
31 signature), name and complete address of the dealer or
32 firm selling the firearm as shown on the dealer's license,
33 the establishment number, if assigned, the dealer's
34 complete business telephone number, any information
35 required by Section 12082, and a statement of the
36 penalties for any person signing a fictitious name or
37 address or for knowingly furnishing any incorrect
38 information or for knowingly omitting any information
39 required to be provided for the register.



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

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

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

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

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a “transaction” means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

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

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

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

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

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

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

12078. (a) (1) The waiting periods described in Sections 12071, 12072, and 12084 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is

1 employed, identifying the purchaser or transferee as a
2 peace officer who is authorized to carry firearms while in
3 the performance of his or her duties, and authorizing the
4 purchase or transfer. The certification shall be delivered
5 to the dealer or local law enforcement agency acting
6 pursuant to Section 12084 at the time of purchase or
7 transfer and the purchaser or transferee shall identify
8 himself or herself as the person authorized in the
9 certification. The dealer or local law enforcement agency
10 shall keep the certification with the record of sale, or
11 LEFT, as the case may be. On the date that the delivery,
12 sale, or transfer is made, the dealer delivering the firearm
13 or the law enforcement agency processing the
14 transaction pursuant to Section 12084 shall forward by
15 prepaid mail to the Department of Justice a report of the
16 transaction pursuant to subdivision (b) or (c) of Section
17 12077 or Section 12084. If electronic or telephonic transfer
18 of applicant information is used, on the date that the
19 application to purchase is completed, the dealer
20 delivering the firearm shall transmit to the Department
21 of Justice an electronic or telephonic report of the
22 transaction as is indicated in subdivision (b) or (c) of
23 Section 12077.

24 (2) The preceding provisions of this article do not
25 apply to deliveries, transfers, or sales of firearms made to
26 authorized law enforcement representatives of cities,
27 counties, cities and counties, or state or federal
28 governments for exclusive use by those governmental
29 agencies if, prior to the delivery, transfer, or sale of these
30 firearms, written authorization from the head of the
31 agency authorizing the transaction is presented to the
32 person from whom the purchase, delivery, or transfer is
33 being made. Proper written authorization is defined as
34 verifiable written certification from the head of the
35 agency by which the purchaser or transferee is employed,
36 identifying the employee as an individual authorized to
37 conduct the transaction, and authorizing the transaction
38 for the exclusive use of the agency by which he or she is
39 employed. Within 10 days of the date a pistol, revolver, or
40 other firearm capable of being concealed upon the



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

9 (3) The preceding provisions of this article do not
10 apply to the loan of a firearm made by an authorized law
11 enforcement representative of a city, county, or city and
12 county, or the state or federal government to a peace
13 officer employed by that agency and authorized to carry
14 a firearm for the carrying and use of that firearm by that
15 peace officer in the course and scope of his or her duties.

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

34 (5) The preceding provisions of this article do not
35 apply to the delivery, sale, or transfer of a firearm by a law
36 enforcement agency to a retiring peace officer who is
37 authorized to carry a firearm pursuant to Section 12027.1.
38 Within 10 days of the date that a pistol, revolver, or other
39 firearm capable of being concealed upon the person is
40 sold, delivered, or transferred to that retiring peace

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

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

21 (7) (A) *The preceding provisions of this article do not*
22 *apply to the acquisition of, receipt of, or disposition of a*
23 *firearm by a duly authorized peace officer while*
24 *investigating violations of law in performance of his or her*
25 *official duties so long as that peace officer complies with*
26 *subparagraph (C).*

27 (B) *The preceding provisions of this article do not*
28 *apply to the acquisition of, receipt of or disposition of a*
29 *firearm by any person working under the immediate*
30 *direction, supervision, or instruction of a duly authorized*
31 *peace officer investigating violations of law in*
32 *performance of his or her official duties so long as that*
33 *person turns over the firearm as soon as practicable to the*
34 *peace officer.*

35 (C) *Unless the employing agency's regulations set a*
36 *shorter period of time, within 24 hours of a peace officer*
37 *coming into possession of a firearm pursuant to*
38 *subparagraph (A), the officer shall cause that firearm to*
39 *be delivered to his or her employing agency, unless that*



1 officer must by law immediately return the same to the
2 person who he or she took the firearm from.

3 (D) An agency that receives possession of a firearm
4 pursuant to subparagraph (C) shall comply with the
5 applicable provisions in Sections 11108 and 11108.3.

6 (E) All firearms acquired by a law enforcement
7 agency pursuant to this paragraph shall be disposed of
8 pursuant to the applicable provisions of Section 12028,
9 12028.5, 12030, or 12032.

10 (8) Subdivision (d) of Section 12072 shall not apply to
11 a person who meets all of the following:

12 (A) He or she takes possession of a firearm after
13 finding that firearm or who took the firearm from a
14 person committing a crime against him or her.

15 (B) He or she promptly transfers the firearm to a law
16 enforcement agency and gives prior notice to the law
17 enforcement agency that he or she is doing so.

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

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

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

29 (C) The firearm is not required by other provisions of
30 law to be dealt with as provided in Section 12028, 12028.5,
31 12030, or 12032.

32 (D) The firearm may by other provisions of law be
33 sold, delivered, or transferred to the public at large.

34 (E) Prior to delivery, the entity receiving the firearm
35 agrees in writing that the firearm will not be restored to
36 operating condition, and will either remain with that
37 entity, or if subsequently disposed of, will be transferred,
38 in accordance with the provisions of this article.

39 (F) Within 10 days of the date that the firearm is sold,
40 delivered, or transferred to that entity, if the firearm is a

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

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

19 *(A) The entity receiving the firearm is open to the*
20 *public.*

21 *(B) The firearm prior to delivery is deactivated or*
22 *rendered inoperable.*

23 *(C) Prior to delivery, the entity receiving the firearm*
24 *agrees in writing that the firearm will not be restored to*
25 *operating condition, and will either remain with that*
26 *entity, or if subsequently disposed of, will be transferred,*
27 *in accordance with the provisions of this article.*

28 *(D) On the date that the firearm is sold, delivered, or*
29 *transferred to that entity, if the firearm is a pistol,*
30 *revolver, or other firearm capable of being concealed*
31 *upon the person or entity, the parties to the transaction*
32 *shall forward by prepaid mail or deliver in person to the*
33 *Department of Justice, a single report signed by both*
34 *parties to the transaction, that includes information*
35 *concerning the entity taking possession of the firearm,*
36 *how title was obtained and from whom, and a description*
37 *of the firearm in question. The report forms that are to be*
38 *completed pursuant to this paragraph shall be provided*
39 *to them by the Department of Justice.*

1 (11) Subdivision (d) of Section 12072 does not apply to
2 deliveries, transfers, or sales of firearms made by
3 authorized law enforcement representatives of cities,
4 counties, cities and counties, or state or federal
5 governments to wholesalers where all of the following
6 conditions are met:

7 (A) Prior to the delivery, transfer, or sale of these
8 firearms, written authorization from the head of the
9 agency authorizing the transaction is presented to the
10 wholesaler. Proper written authorization is defined as
11 verifiable written certification from the head of the
12 agency that employs the purchaser or transferee,
13 identifying the employee as an individual authorized to
14 conduct the transaction.

15 (B) In the case of an authorized law enforcement
16 representative of a city, county, city and county, or of the
17 state, the firearms are not firearms that are to be dealt
18 with pursuant to Section 12028, 12028.5, 12030, or 12032.

19 (C) The firearms are part of a transaction involving a
20 trade or exchange of firearms wherein that agency is
21 receiving other firearms pursuant to paragraph (2) or
22 where the firearms are being returned to that wholesaler.

23 (D) If the firearm is a pistol, revolver, or other firearm
24 capable of being concealed upon the person, within 10
25 days of the date that the firearm is sold, exchanged,
26 returned, transferred, or delivered to that wholesaler, the
27 name of the wholesaler, and the make, model, serial
28 number, and other identifying characteristics of the
29 firearm being sold, transferred, or delivered shall be
30 entered into the Automated Firearms System (AFS) via
31 the California Law Enforcement Telecommunications
32 System (CLETS) by the law enforcement or state agency
33 that sold, transferred, returned, exchanged, or delivered
34 the firearm. Those agencies without access to AFS shall
35 arrange with the sheriff of the county in which the agency
36 is located to input this information into this system. A
37 record of the same shall be entered into the Automated
38 Firearms System (AFS) via the California Law
39 Enforcement Telecommunications System (CLETS) by
40 the law enforcement or state agency. Those agencies

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

4 (E) The transaction complies with Chapter 44
5 (commencing with Section 921) of Title 18 of the United
6 States Code and the regulations issued pursuant to that
7 chapter.

8 (12) (A) In any case where a law enforcement agency
9 in accordance with the provisions of this article transfers
10 its ownership of a pistol, revolver, or other firearm
11 capable of being concealed upon the person that is not a
12 nuisance weapon subject to the provisions of Section
13 12028, 12028.5, 12030, or 12032, and the firearm is not
14 being transferred by that agency pursuant to paragraph
15 (2), (4), (5), (9), or (11) of this subdivision or subdivision
16 (i), within 10 days of the date that the pistol, revolver, or
17 other firearm capable of being concealed upon the
18 person is sold, delivered, or transferred, the name of the
19 agency that sold, transferred, or delivered the firearm
20 and to whom it was sold, delivered, or transferred, as well
21 as the make, model, serial number, and other identifying
22 characteristics of the firearm being sold, transferred, or
23 delivered shall be entered into the Automated Firearms
24 System (AFS) via the California Law Enforcement
25 Telecommunications System (CLETS) by the law
26 enforcement or state agency that sold, transferred, or
27 delivered the firearm. Those agencies without access to
28 AFS shall arrange with the sheriff of the county in which
29 the agency is located to input this information via CLETS.

30 (B) In any case where a law enforcement agency
31 destroys any pistol, revolver, or other firearm capable of
32 being concealed upon the person that is not a nuisance
33 weapon subject to the provisions of Section 12028, 12028.5,
34 12030, or 12032, within 10 days of the same shall notify the
35 department of the same. This notification shall consist of
36 a complete description of each firearm, including the
37 name of the manufacturer or brand name, model, caliber,
38 and serial number. That information shall be entered into
39 the Automated Firearms System (AFS) via the California
40 Law Enforcement Telecommunications System

1 *(CLETS) by the law enforcement or state agency that*
2 *destroyed the firearm. Those agencies without access to*
3 *AFS shall arrange with the sheriff of the county in which*
4 *the agency is located to input this information via CLETS.*

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

12 (c) (1) Subdivision (d) of Section 12072 shall not
13 apply to the infrequent transfer of a firearm that is not a
14 pistol, revolver, or other firearm capable of being
15 concealed upon the person by gift, bequest, intestate
16 succession, or other means by one individual to another
17 if both individuals are members of the same immediate
18 family.

19 (2) Subdivision (d) of Section 12072 shall not apply to
20 the infrequent transfer of a pistol, revolver, or other
21 firearm capable of being concealed upon the person by
22 gift, bequest, intestate succession, or other means by one
23 individual to another if both individuals are members of
24 the same immediate family and both of the following
25 conditions are met:

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

35 (B) Prior to taking possession of the firearm, the
36 person taking title to the firearm shall obtain a basic
37 firearm safety certificate.

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

40 (A) Parent and child.

1 (B) Grandparent and grandchild.

2 (d) Subdivision (d) of Section 12072 shall not apply to
3 the infrequent loan of firearms between persons who are
4 personally known to each other for any lawful purpose, if
5 the loan does not exceed 30 days in duration.

6 (e) Section 12071 and subdivisions (c) and (d) of
7 Section 12072 shall not apply to the delivery of a firearm
8 to a gunsmith for service or repair *or the return of a*
9 *firearm to its owner by a gunsmith who has serviced or*
10 *repaired that firearm.*

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

20 (g) (1) Subdivision (d) of Section 12072 shall not
21 apply to the infrequent sale or transfer of a firearm, other
22 than a pistol, revolver, or other firearm capable of being
23 concealed upon the person, at auctions or similar events
24 conducted by nonprofit mutual or public benefit
25 corporations organized pursuant to the Corporations
26 Code.

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

38 (2) Subdivision (d) of Section 12072 shall not apply to
39 the transfer of a firearm other than a pistol, revolver, or
40 other firearm capable of being concealed upon the

1 person, if the firearm is donated for an auction or similar
2 event described in paragraph (1) and the firearm is
3 delivered to the nonprofit corporation immediately
4 preceding, or contemporaneous with, the auction or
5 similar event.

6 (3) The waiting period described in Sections 12071 and
7 12072 shall not apply to a dealer who delivers a firearm
8 other than a pistol, revolver, or other firearm capable of
9 being concealed upon the person, at an auction or similar
10 event described in paragraph (1), as authorized by
11 subparagraph (C) of paragraph (1) of subdivision (b) of
12 Section 12071. Within two business days of completion of
13 the application to purchase, the dealer shall forward by
14 prepaid mail to the Department of Justice a report of the
15 same as is indicated in subdivision (c) of Section 12077. If
16 the electronic or telephonic transfer of applicant
17 information is used, within two business days of
18 completion of the application to purchase, the dealer
19 delivering the firearm shall transmit to the Department
20 of Justice an electronic or telephonic report of the same
21 as is indicated in subdivision (c) of Section 12077.

22 (h) (1) Subdivision (d) of Section 12072 shall not
23 apply to the loan of a firearm for the purposes of shooting
24 at targets if the loan occurs on the premises of a target
25 facility that holds a business or regulatory license or on the
26 premises of any club or organization organized for the
27 purposes of practicing shooting at targets upon
28 established ranges, whether public or private, if the
29 firearm is at all times kept within the premises of the
30 target range or on the premises of the club or
31 organization.

32 (2) *Subdivision (d) of Section 12072 shall not apply to*
33 *the loan of a firearm made by a licensed private*
34 *investigator licensed pursuant to Chapter 11.3*
35 *(commencing with Section 7512) of Division 3 of the*
36 *Business and Professions Code to an employee thereof*
37 *who has a permit or license to carry a firearm issued to*
38 *him or her by the Department of Consumer Affairs to*
39 *carry a firearm in the course and scope of his or her*
40 *employment.*

(3) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm made by a private patrol operator licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code to an employee thereof who has a permit or license to carry a firearm issued to him or her by the Department of Consumer Affairs to carry a firearm in the course and scope of his or her employment.

(4) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm made by an alarm company operator licensed pursuant to Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code to an employee thereof who has a permit or license to carry a firearm issued to him or her by the Department of Consumer Affairs to carry a firearm in the course and scope of his or her employment.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms and all of the following conditions are met:

(A) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2) of subdivision (u), the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the

1 firearm in question. The reports that individuals
2 complete pursuant to this paragraph shall be provided to
3 them by the department.

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

8 (i) Within 30 days of taking possession, forward by
9 prepaid mail or deliver in person to the department, a
10 report of information concerning the individual taking
11 possession of the firearm, how title or possession was
12 obtained and from whom, and a description of the firearm
13 in question. The reports that individuals complete
14 pursuant to this paragraph shall be provided to them by
15 the department.

16 (ii) Prior to taking possession of the firearm, the
17 person shall either obtain a basic firearms safety
18 certificate or be exempt from obtaining a basic firearms
19 safety certificate pursuant to Section 12081.

20 (C) Where the person receiving title or possession of
21 the pistol, revolver, or other firearm capable of being
22 concealed upon the person is a person described in
23 subparagraph (I) of paragraph (2) of subdivision (u), on
24 the date that the person is delivered the firearm, the
25 name and other information concerning the person
26 taking possession of the firearm, how title or possession of
27 the firearm was obtained and from whom, and a
28 description of the firearm by make, model, serial number,
29 and other identifying characteristics, shall be entered
30 into the Automated Firearms System (AFS) via the
31 California Law Enforcement Telecommunications
32 System (CLETS) by the law enforcement or state agency
33 that transferred or delivered the firearm. Those agencies
34 without access to AFS shall arrange with the sheriff of the
35 county in which the agency is located to input this
36 information via this system.

37 (D) Where the person receiving title or possession of
38 the pistol, revolver, or other firearm capable of being
39 concealed upon the person is a person described in
40 subparagraph (J) of paragraph (2) of subdivision (u), on

1 the date that the person is delivered the firearm, the
2 name and other information concerning the person
3 taking possession of the firearm, how title or possession of
4 the firearm was obtained and from whom, and a
5 description of the firearm by make, model, serial number,
6 and other identifying characteristics, shall be entered
7 into the AFS via the CLETS by the law enforcement or
8 state agency that transferred or delivered the firearm.
9 Those agencies without access to AFS shall arrange with
10 the sheriff of the county in which the agency is located to
11 input this information via this system. In addition, that
12 law enforcement agency shall not deliver that pistol,
13 revolver, or other firearm capable of being concealed
14 upon the person to the person referred to in this
15 subparagraph unless prior to the delivery of the same the
16 person presents proof to the agency that he or she is the
17 holder of a basic firearms safety certificate or is exempt
18 from obtaining a basic firearms safety certificate pursuant
19 to Section 12081.

20 (3) Subdivision (d) of Section 12072 shall not apply to
21 a person who takes possession of a firearm by operation
22 of law in a representative capacity who subsequently
23 transfers ownership of the firearm to himself or herself in
24 his or her individual capacity. In the case of a pistol,
25 revolver, or other firearm capable of being concealed
26 upon the person, on and after April 1, 1994, that individual
27 shall have a basic firearms safety certificate in order for
28 the exemption set forth in this paragraph to apply.

29 (j) Subdivision (d) of Section 12072 shall not apply to
30 deliveries, transfers, or returns of firearms made pursuant
31 to Section 12028, 12028.5, ~~or~~ 12030, *or* 12032.

32 (k) Section 12071 and subdivision (c) of Section 12072
33 shall not apply to any of the following:

34 (1) The delivery, sale, or transfer of unloaded firearms
35 that are not pistols, revolvers, or other firearms capable
36 of being concealed upon the person by a dealer to another
37 dealer upon proof that the person receiving the firearm
38 is licensed pursuant to Section 12071.

39 (2) The delivery, sale, or transfer of unloaded firearms
40 by dealers to persons who reside outside this state who are

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

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

8 (4) The delivery, sale, or transfer of unloaded firearms
9 by one dealer to another dealer if the firearms are
10 intended as merchandise in the receiving dealer's
11 business upon proof that the person receiving the firearm
12 is licensed pursuant to Section 12071.

13 (5) The delivery, sale, or transfer of an unloaded
14 firearm that is not a pistol, revolver, or other firearm
15 capable of being concealed upon the person by a dealer
16 to himself or herself.

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

28 (l) A person who is exempt from subdivision (d) of
29 Section 12072 or is otherwise not required by law to report
30 his or her acquisition, ownership, or disposal of a pistol,
31 revolver, or other firearm capable of being concealed
32 upon the person or who moves out of this state with his
33 or her pistol, revolver, or other firearm capable of being
34 concealed upon the person may submit a report of the
35 same to the Department of Justice in a format prescribed
36 by the department.

37 (m) Subdivision (d) of Section 12072 shall not apply to
38 the delivery, sale, or transfer of unloaded firearms to a
39 wholesaler as merchandise in the wholesaler's business by
40 manufacturers or importers licensed to engage in that

1 business pursuant to Chapter 44 (commencing with
2 Section 921) of Title 18 of the United States Code and the
3 regulations issued pursuant thereto, or by another
4 wholesaler, if the delivery, sale, or transfer is made in
5 accordance with Chapter 44 (commencing with Section
6 921) of Title 18 of the United States Code.

7 (n) (1) The waiting period described in Section 12071
8 or 12072 shall not apply to the delivery, sale, or transfer
9 of a pistol, revolver, or other firearm capable of being
10 concealed upon the person by a dealer in either of the
11 following situations:

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

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

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

20 (A) If the dealer is receiving the firearm from another
21 dealer, the dealer receiving the firearm shall present
22 proof to the dealer delivering the firearm that he or she
23 is licensed pursuant to Section 12071.

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

38 (o) Section 12071 and subdivisions (c) and (d) of
39 Section 12072 shall not apply to the delivery, sale, or
40 transfer of firearms regulated pursuant to Section 12020,

Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

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

(2) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

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

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

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

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

(3) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian if both of the following circumstances exist:

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

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

(4) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071, 12072, or 12084 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons

1 permit issued by the Department of Justice issued
2 pursuant to Section 12095, 12230, 12250, or 12305. On the
3 date that the application to purchase is completed, the
4 dealer delivering the firearm or the law enforcement
5 agency processing the transaction pursuant to Section
6 12084, shall forward by prepaid mail to the Department
7 of Justice a report of the same as described in subdivision
8 (b) or (c) of Section 12077 or Section 12084. If the
9 electronic or telephonic transfer of applicant information
10 is used, on the date that the application to purchase is
11 completed, the dealer delivering the firearm shall
12 transmit to the Department of Justice an electronic or
13 telephonic report of the same as is indicated in
14 subdivision (b) or (c) of Section 12077.

15 (s) Subdivision (d) of Section 12072 shall not apply to
16 the loan of an unloaded firearm or the loan of a firearm
17 loaded with blank cartridges for use solely as a prop for
18 a motion picture, television, or video production or an
19 entertainment or theatrical event.

20 (t) (1) The waiting period described in Sections
21 12071, 12072, and 12084 shall not apply to the sale,
22 delivery, loan, or transfer of a firearm that is a curio or
23 relic, as defined in Section 178.11 of Title 27 of the Code
24 of Federal Regulations, by a dealer or through a law
25 enforcement agency to a person who is licensed as a
26 collector pursuant to Chapter 44 (commencing with
27 Section 921) of Title 18 of the United States Code and the
28 regulations issued pursuant thereto who has a current
29 certificate of eligibility issued to him or her by the
30 Department of Justice pursuant to Section 12071. On the
31 date that the delivery, sale, or transfer is made, the dealer
32 delivering the firearm or the law enforcement agency
33 processing the transaction pursuant to Section 12084, shall
34 forward by prepaid mail to the Department of Justice a
35 report of the transaction pursuant to subdivision (b) of
36 Section 12077 or Section 12084. If the electronic or
37 telephonic transfer of applicant information is used, on
38 the date that the application to purchase is completed,
39 the dealer delivering the firearm shall transmit to the
40 Department of Justice an electronic or telephonic report

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

3 (2) Subdivision (d) of Section 12072 shall not apply to
4 the infrequent sale, loan, or transfer of a firearm that is
5 not a pistol, revolver, or other firearm capable of being
6 concealed upon the person, which is a curio or relic
7 manufactured at least 50 years prior to the current date,
8 but not including replicas thereof, as defined in Section
9 178.11 of Title 27 of the Code of Federal Regulations.

10 (u) As used in this section:

11 (1) “Infrequent” has the same meaning as in
12 paragraph (1) of subdivision (c) of Section 12070.

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

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

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

23 (C) A levying officer, as defined in Section 481.140,
24 511.060, or 680.260 of the Code of Civil Procedure.

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

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

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

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

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

37 (I) Firearms received by the family of a police officer
38 or deputy sheriff from a local agency pursuant to Section
39 50081 of the Government Code.



(J) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

(K) *Firearms that are received by a person, other than the authorized representative of a law enforcement agency, acting as the designee of a person who is utilizing Section 12083 to avoid another applicable prohibition on possessing a firearm.*

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

12082. (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars (\$10) per

1 firearm, plus the applicable fee that the Department of
2 Justice may charge pursuant to Section 12076. Nothing in
3 these provisions shall prevent a dealer from charging a
4 smaller fee. The fee that the department may charge is
5 the fee that would be applicable pursuant to Section
6 12076, if the dealer was selling, transferring, or delivering
7 a firearm to a purchaser or transferee or person being
8 loaned a firearm, without any other parties being
9 involved in the transaction.

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

12 (1) Allow the seller or transferor of the person loaning
13 the firearm, and the purchaser or transferee or the person
14 being loaned the firearm, to complete a sale, loan, or
15 transfer through a dealer, and to allow those persons and
16 the dealer to comply with the requirements of this section
17 and Sections 12071, 12072, 12076, ~~and~~ 12077, *and* 12083 and
18 to preserve the confidentiality of those records.

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

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



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

3 *SEC. 13. Section 12083 is added to the Penal Code, to*
4 *read:*

5 *12083. (a) Unless another provision of law specifies a*
6 *different procedure, not later than 30 days after the*
7 *occurrence of any event that renders a person ineligible*
8 *to possess a firearm, that person shall do one of the*
9 *following:*

10 *(1) Cause that firearm to be sold or transferred in*
11 *accordance with the provisions of subdivision (d) of*
12 *Section 12072 or in accordance with the provisions of an*
13 *exemption to subdivision (d) of Section 12072.*

14 *(2) Cause that firearm to be sold or transferred to a*
15 *person licensed pursuant to Section 12071.*

16 *(3) Cause that firearm to be sold or transferred to a law*
17 *enforcement agency, which shall treat that firearm as if*
18 *it was seized as a nuisance weapon and destroy it pursuant*
19 *to Section 12028, utilize it pursuant to Section 12030, or*
20 *dispose of the firearm pursuant to paragraph (4).*

21 *(4) If agreed to by the individual and the law*
22 *enforcement agency, the law enforcement agency shall*
23 *retain possession of the firearm while the individual or his*
24 *or her designated representative arranges the disposition*
25 *of the firearm pursuant this paragraph. The individual or*
26 *his or her designated representative, may, at any time up*
27 *to one year after the delivery or surrender of the firearm*
28 *to the law enforcement agency, transfer the firearm in*
29 *accordance with the provisions of Section 12072 to any*
30 *person eligible to possess that firearm. Upon notification*
31 *in writing of the transaction by the purchaser or*
32 *transferee and the seller or transferor, the law*
33 *enforcement agency shall, within 10 days, deliver the*
34 *firearm to a person who is licensed pursuant to Section*
35 *12071 to process the transaction pursuant to Sections*
36 *12071 and 12072. If, at the end of the one-year period, the*
37 *firearm has not been transferred, the law enforcement*
38 *agency shall cause the firearm to be destroyed pursuant*
39 *to Section 12028 or utilized pursuant to Section 12030.*

1 (b) Any person who is subject to this section shall not
2 be in violation of any section of law that otherwise
3 prohibits his or her possession of a firearm, if he or she
4 transfers the firearm as provided, and within the time
5 period set forth in subdivision (a).

6 SEC. 14. Section 12084 of the Penal Code is amended
7 to read:

8 12084. (a) As used in this section, the following
9 definitions apply:

10 (1) "Agency" means a sheriff's department in a county
11 of less than 200,000 persons, according to the most recent
12 federal decennial census, that elects to process purchases,
13 sales, loans, or transfers of firearms.

14 (2) "Seller" means the seller or transferor of a firearm
15 or the person loaning the firearm.

16 (3) "Purchaser" means the purchaser or transferee of
17 a firearm or the person being loaned a firearm.

18 (4) "Purchase" means the purchase, loan, sale, or
19 transfer of a firearm.

20 (5) "Department" means the Department of Justice.

21 (6) "LEFT" means the Law Enforcement Firearms
22 Transfer Form consisting of the transfer form utilized to
23 purchase a firearm in accordance with this section.

24 (b) As an alternative to completing the sale, transfer,
25 or loan of a firearm through a licensed dealer pursuant to
26 Section 12082, the parties to the purchase of a firearm may
27 complete the transaction through an agency in
28 accordance with this section in order to comply with
29 subdivision (d) of Section 12072.

30 (c) (1) LEFTs shall be prepared by the State Printer
31 and shall be furnished to agencies on application at a cost
32 to be determined by the Department of General Services
33 for each 100 leaves in quintuplicate, one original and four
34 duplicates for the making of carbon copies. The original
35 and duplicate copies shall differ in color, and shall be in
36 the form provided by this section. The State Printer, upon
37 issuing the LEFT, shall forward to the department the
38 name and address of the agency together with the series
39 and sheet numbers on the LEFT. The LEFT shall not be
40 transferable.

1 (2) The department shall prescribe the form of the
2 LEFT. It shall be in the same exact format set forth in
3 Sections 12077 and 12082, with the same distinct formats
4 for firearms that are pistols, revolvers, and other firearms
5 capable of being concealed upon the person and for
6 firearms that are not pistols, revolvers, and other firearms
7 capable of being concealed upon the person, except that,
8 instead of the listing of information concerning a dealer,
9 the LEFT shall contain the name, telephone number, and
10 address of the law enforcement agency.

11 (3) The original of each LEFT shall be retained in
12 consecutive order. Each book of 50 originals shall become
13 the permanent record of transactions that shall be
14 retained not less than three years from the date of the last
15 transaction and shall be provided for the inspection of any
16 peace officer, department employee designated by the
17 Attorney General, or agent of the federal Bureau of
18 Alcohol, Tobacco and Firearms upon the presentation of
19 proper identification.

20 (4) Ink shall be used to complete each LEFT. The
21 agency shall ensure that all information is provided
22 legibly. The purchaser and seller shall be informed that
23 incomplete or illegible information delays purchases.

24 (5) Each original LEFT shall contain instructions
25 regarding the procedure for completion of the form and
26 the routing of the form. The agency shall comply with
27 these instructions which shall include the information set
28 forth in this subdivision.

29 (6) One firearm transaction shall be reported on each
30 LEFT. For purposes of this paragraph, a “transaction”
31 means a single sale, loan, or transfer of any number of
32 firearms that are not pistols, revolvers, or other firearms
33 capable of being concealed upon the person between the
34 same two persons.

35 (d) The following procedures shall be followed in
36 processing the purchase:

37 (1) Without waiting for the conclusion of any waiting
38 period to elapse, the seller shall immediately deliver the
39 firearm to the agency solely to complete the LEFT. Upon
40 completion of the LEFT, the firearm shall be

1 immediately returned by the agency to the seller without
2 waiting for the waiting period to elapse.

3 (2) The purchaser shall be required to present clear
4 evidence of his or her identity and age, as defined in
5 Section 12071, to the agency. The agency shall require the
6 purchaser to complete the original and one copy of the
7 LEFT. An employee of the agency shall then affix his or
8 her signature as a witness to the signature and
9 identification of the purchaser.

10 (3) Two copies of the LEFT shall, on that date of
11 purchase, be placed in the mail, postage prepaid to the
12 department at Sacramento. The third copy shall be
13 provided to the purchaser and the fourth copy to the
14 seller.

15 (4) The department shall examine its records, as well
16 as those records that it is authorized to request from the
17 State Department of Mental Health pursuant to Section
18 8104 of the Welfare and Institutions Code, in order to
19 determine if the purchaser is a person described in
20 Section 12021 or 12021.1 of this code or Section 8100 or
21 8103 of the Welfare and Institutions Code.

22 (5) If the department determines that the copies of
23 the LEFT submitted to it pursuant to paragraph (3)
24 contain any blank spaces or inaccurate, illegible, or
25 incomplete information, preventing identification of the
26 purchaser or the firearm to be purchased, or if any fee
27 required pursuant to paragraph (6) is not submitted by
28 the agency in conjunction with submission of the copies
29 of the LEFT, or if the department determines that the
30 person is a person described in Section 12021 or 12021.1
31 of this code or Section 8100 or 8103 of the Welfare and
32 Institutions Code, it shall immediately notify the agency
33 of that fact. Upon notification by the department, the
34 purchaser shall submit any fee required pursuant to
35 paragraph (6), as appropriate, and, if notification by the
36 department is received by the agency at any time prior
37 to delivery of the firearm, the delivery of the firearm shall
38 be withheld until the conclusion of the waiting period
39 described in paragraph (7).



1 (6) (A) The agency may charge a fee, not to exceed
2 actual cost, sufficient to reimburse the agency for
3 processing the transfer.

4 (B) The department may charge a fee, not to exceed
5 actual cost, sufficient to reimburse the department for
6 providing the information. The department shall charge
7 the same fee that it would charge a dealer pursuant to
8 Section 12082.

9 (7) The firearm shall not be delivered to the purchaser
10 as follows:

11 (A) Prior to April 1, 1997, within 15 days of the
12 application to purchase a pistol, revolver, or other firearm
13 capable of being concealed upon the person, or, after
14 notice by the department pursuant to paragraph (5),
15 within 15 days of the submission to the department of any
16 fees required pursuant to this subdivision, or within 15
17 days of the submission to the department of any
18 correction to the LEFT, whichever is later. Prior to April
19 1, 1997, within 10 days of the application to purchase any
20 firearm that is not a pistol, revolver, or other firearm
21 capable of being concealed upon the person, or, after
22 notice by the department pursuant to paragraph (5),
23 within 10 days of the submission to the department of any
24 fees required pursuant to this subdivision, or within 10
25 days of the submission to the department of any
26 correction to the LEFT, whichever is later. On and after
27 April 1, 1997, within 10 days of the application to
28 purchase, or after notice by the department pursuant to
29 paragraph (5), within 10 days of the submission to the
30 department of any fees required pursuant to this
31 subdivision, or within 10 days of the submission to the
32 department of any correction to the LEFT, whichever is
33 later.

34 (B) Unless unloaded.

35 (C) In the case of a pistol, revolver, or other firearm
36 capable of being concealed upon the person, unless
37 securely wrapped or in a locked container.

38 (D) Unless the purchaser presents clear evidence of
39 his or her identity and age to the agency.

1 (E) Whenever the agency is notified by the
2 department that the person is in a prohibited class
3 described in Section 12021 or 12021.1, or Section 8100 or
4 8103 of the Welfare and Institutions Code.

5 (F) Unless done at the agency's premises.

6 (G) In the case of a pistol, revolver, or other firearm
7 capable of being concealed upon the person,
8 commencing April 1, 1994, unless the purchaser presents
9 to the seller a basic firearms safety certificate.

10 (H) Unless the purchaser is at least 18 years of age.

11 (8) (A) *Until July 1, 2003, on the date that the seller*
12 *delivers a pistol, revolver, or other firearm capable of*
13 *being concealed upon the person to the purchaser, he or*
14 *she, if required by the Department of Justice, shall report*
15 *in a manner and format prescribed by the department*
16 *the date and time he or she delivered that pistol, revolver,*
17 *or other firearm capable of being concealed upon the*
18 *person to that purchaser.*

19 (B) *Commencing July 1, 2003, on the date that the*
20 *seller delivers a pistol, revolver, or other firearm capable*
21 *of being concealed upon the person to the purchaser, he*
22 *or she shall report to the Department of Justice in a*
23 *manner and format prescribed by the department the*
24 *date and time he or she delivered that pistol, revolver, or*
25 *other firearm capable of being concealed upon the*
26 *person to that purchaser.*

27 (e) The action of a law enforcement agency acting
28 pursuant to Section 12084 shall be deemed to be a
29 discretionary act within the meaning of the California
30 Tort Claims Act pursuant to Division 3.6 (commencing
31 with Section 810) of Title 1 of the Government Code.

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

39 (g) Any person furnishing a fictitious name or address
40 or knowingly furnishing any incorrect information or

1 knowingly omitting any information required to be
2 provided for the LEFT is guilty of a misdemeanor.

3 (h) All sums received by the department pursuant to
4 this section shall be deposited in the Dealers' Record of
5 Sale Special Account of the General Fund.

6 *SEC. 15. Chapter 1180 of the Statutes of 1988 shall be*
7 *known, and may be cited as, the Klehs Safe and*
8 *Responsible Firearms Transfer Act of 1988.*

9 *SEC. 16. Chapter 462 of the Statutes of 1997 shall be*
10 *known as, and may be cited as, the*
11 *Shelley-Alpert-Ducheny Pistol-Revolver Registration*
12 *Parity Act of 1997.*

13 *SEC. 17. It is not the intent of the Legislature in*
14 *enacting paragraph (24) of subdivision (b) of Section*
15 *12070 of the Penal Code and paragraph (8) of subdivision*
16 *(a) of Section 12078 of the Penal Code to expand or*
17 *narrow the application of current statutes and judicial*
18 *decisions in other sections of law regarding the doctrine*
19 *of "temporary lawful possession" recognized in People v.*
20 *Mijares (1971) 6 Cal.3d 415, People v. Hurtado (1996) 47*
21 *Cal.4th 805, and People v. Pepper (1996) 41 Cal.App.4th*
22 *1029.*

23 *SEC. 18. The amendment to subdivision (k) of, and*
24 *the addition of subdivision (n) to, Section 6389 of the*
25 *Family Code, made by Section 1 of this act, are*
26 *declaratory of existing law.*

27 *SEC. 19. No reimbursement is required by this act*
28 *pursuant to Section 6 of Article XIII B of the California*
29 *Constitution for certain costs that may be incurred by a*
30 *local agency or school district because in that regard this*
31 *act creates a new crime or infraction, eliminates a crime*
32 *or infraction, or changes the penalty for a crime or*
33 *infraction, within the meaning of Section 17556 of the*
34 *Government Code, or changes the definition of a crime*
35 *within the meaning of Section 6 of Article XIII B of the*
36 *California Constitution.*

37 *However, notwithstanding Section 17610 of the*
38 *Government Code, if the Commission on State Mandates*
39 *determines that this act contains other costs mandated by*
40 *the state, reimbursement to local agencies and school*

1 *districts for those costs shall be made pursuant to Part 7*
2 *(commencing with Section 17500) of Division 4 of Title*
3 *2 of the Government Code. If the statewide cost of the*
4 *claim for reimbursement does not exceed one million*
5 *dollars (\$1,000,000), reimbursement shall be made from*
6 *the State Mandates Claims Fund.*

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate, January 19, 1999 (JR 11)**

14 CORRECTIONS

15 Title — Line 1.
