

AMENDED IN ASSEMBLY JUNE 21, 2000
AMENDED IN SENATE JANUARY 24, 2000
AMENDED IN SENATE JANUARY 13, 2000
AMENDED IN SENATE JANUARY 3, 2000
AMENDED IN SENATE JANUARY 19, 1999

SENATE BILL

No. 31

Introduced by Senators Peace ~~and Perata~~, *Perata, and Solis*

December 7, 1998

An act to amend Section 6389 of the Family Code, and to amend Sections 11106, 12001, *12021*, 12026.2, *12030*, 12070, 12071, 12072, 12073, 12076, 12078, and 12084 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, Peace. 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.

(3) *Existing law provides that every person who owns or possesses a firearm knowing that he or she is prohibited from owning or possessing a firearm by the provisions of a protective order, as specified, is guilty of a public offense.*

This bill would provide that every person who possesses a firearm knowing that possession is prohibited by a protective order, as specified, is guilty of a public offense.

(4) 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)~~

(5) *Existing law generally provides for the destruction of firearms used in crimes, as specified, but also permits return of those firearms to their owners, under specified circumstances.*

This bill, in addition, would require law enforcement agencies to provide specified information about the firearm



and the person it is returned to, in those cases where a handgun is returned to its owner, rather than being destroyed.

By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

(6) 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)~~

(7) 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)~~

(8) 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)~~

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



~~(8)~~

(10) 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.

~~(9)~~

(11) 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.

~~(10)~~

(12) 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.

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

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

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

3 6389. (a) A person subject to a protective order, as
4 defined in Section 6218, shall not ~~own~~, possess, purchase,
5 or receive a firearm while that protective order is in
6 effect.

7 ~~(b) The Judicial Council shall provide a notice on all~~
8 ~~forms requesting a protective order that, at the hearing~~
9 ~~for a protective order, the respondent shall be ordered to~~

~~1 relinquish possession or control of any firearms and not to
2 purchase or receive or attempt to purchase or receive any
3 firearms for a period not to exceed the duration of the
4 restraining order.~~

5 (b) *The Judicial Council shall provide notice on all
6 protective orders that the respondent is prohibited from
7 possessing, purchasing, or receiving a firearm while the
8 protective order is in effect and that the firearm shall be
9 relinquished to the local law enforcement agency for that
10 jurisdiction, or sold to a licensed gun dealer, and that
11 proof of surrender or sale shall be filed within a specified
12 time of receipt of the order. The order shall also state on
13 its face the expiration date for relinquishment.*

14 (c) If the respondent is present in court at a duly
15 noticed hearing, the court shall order the respondent to
16 relinquish any firearm in that person's immediate
17 possession or control, or subject to that person's
18 immediate possession or control, within 24 hours of the
19 order, by either surrendering the firearm to the control
20 of local law enforcement officials, or by selling the firearm
21 to a licensed gun dealer, as specified in Section 12071 of
22 the Penal Code. If the respondent is not present at the
23 hearing, the respondent shall relinquish the firearm
24 within 48 hours after being served with the order. A
25 person ordered to relinquish any firearm pursuant to this
26 subdivision shall file with the court a receipt showing the
27 firearm was surrendered to the local law enforcement
28 agency or sold to a licensed gun dealer within 72 hours
29 after receiving the order. In the event that it is necessary
30 to continue the date of any hearing due to a request for
31 a relinquishment order pursuant to this section, the court
32 shall ensure that all applicable protective orders
33 described in Section 6218 remain in effect or bifurcate the
34 issues and grant the permanent restraining order
35 pending the date of the hearing.

36 (d) If the respondent declines to relinquish possession
37 of any firearm based upon the assertion of the right
38 against self-incrimination, as provided by the Fifth
39 Amendment to the United States Constitution and
40 Section 15 of Article I of the California Constitution, the

1 court may grant use immunity for the act of relinquishing
2 the firearm required under this section.

3 (e) A local law enforcement agency may charge the
4 respondent a fee for the storage of any firearm pursuant
5 to this section. This fee shall not exceed the actual cost
6 incurred by the local law enforcement agency for the
7 storage of the firearm. For purposes of this subdivision,
8 “actual cost” means expenses directly related to taking
9 possession of a firearm, storing the firearm, and
10 surrendering possession of the firearm to a licensed
11 dealer as defined in Section 12071 of the Penal Code or to
12 the respondent.

13 (f) The restraining order requiring a person to
14 relinquish a firearm pursuant to subdivision (c) shall state
15 on its face that the respondent is prohibited from ~~owning,~~
16 possessing, purchasing, or receiving a firearm while the
17 protective order is in effect and that the firearm shall be
18 relinquished to the local law enforcement agency for that
19 jurisdiction or sold to a licensed gun dealer, and that proof
20 of surrender or sale shall be filed with the court within a
21 specified period of receipt of the order. The order shall
22 also state on its face the expiration date for
23 relinquishment. Nothing in this section shall limit a
24 respondent’s right under existing law to petition the court
25 at a later date for modification of the order.

26 (g) (1) The restraining order requiring a person to
27 relinquish a firearm pursuant to subdivision (c) shall
28 prohibit the person from possessing or controlling any
29 firearm for the duration of the order. At the expiration of
30 the order, the local law enforcement agency shall return
31 possession of any surrendered firearm to the respondent,
32 within five days after the expiration of the
33 relinquishment order, unless the local law enforcement
34 agency determines that (1) the firearm has been stolen,
35 (2) the respondent is prohibited from possessing a
36 firearm because the respondent is in any prohibited class
37 for the possession of firearms, as defined in Sections 12021
38 and 12021.1 of the Penal Code and Sections 8100 and 8103
39 of the Welfare and Institutions Code, or (3) another
40 successive restraining order is used against the



1 respondent under this section. If the local law
2 enforcement agency determines that the respondent is
3 the legal owner of any firearm deposited with the local
4 law enforcement agency and is prohibited from
5 possessing any firearm, the respondent shall be entitled
6 to sell or transfer the firearm to a licensed dealer as
7 defined in Section 12071 of the Penal Code. If the firearm
8 has been stolen, the firearm shall be restored to the lawful
9 owner upon his or her identification of the firearm and
10 proof of ownership.

11 (2) Within 10 days of the date that a firearm is sold,
12 delivered, returned, or transferred by a local law
13 enforcement agency pursuant to this section, if the
14 firearm is a pistol, revolver, or other firearm capable of
15 being concealed upon the person, the name of the agency
16 delivering the firearm, and the make, model, serial
17 number, and other identifying characteristics of the
18 firearm being returned, sold, transferred, or delivered
19 shall be entered into the Automated Firearms System
20 (AFS) via the California Law Enforcement
21 Telecommunications Systems (CLETS) by the law
22 enforcement or state agency that sold, transferred,
23 returned, or delivered the firearm. Those agencies
24 without access to AFS shall arrange with the sheriff of the
25 county in which the agency is located to input this
26 information into that system.

27 (h) The court may, as part of the relinquishment
28 order, grant an exemption from the relinquishment
29 requirements of this section for a particular firearm if the
30 respondent can show that a particular firearm is
31 necessary as a condition of continued employment and
32 that the current employer is unable to reassign the
33 respondent to another position where a firearm is
34 unnecessary. If an exemption is granted pursuant to this
35 subdivision, the order shall provide that the firearm shall
36 be in the physical possession of the respondent only
37 during scheduled work hours and during travel to and
38 from his or her place of employment. In any case
39 involving a peace officer who as a condition of
40 employment and whose personal safety depends on the

1 ability to carry a firearm, a court may allow the peace
2 officer to continue to carry a firearm, either on duty or off
3 duty, if the court finds by a preponderance of the
4 evidence that the officer does not pose a threat of harm.
5 Prior to making this finding, the court shall require a
6 mandatory psychological evaluation of the peace officer
7 and may require the peace officer to enter into
8 counseling or other remedial treatment program to deal
9 with any propensity for domestic violence.

10 (i) During the period of the relinquishment order, a
11 respondent is entitled to make one sale of all firearms that
12 are in the possession of a local law enforcement agency
13 pursuant to this section. A licensed gun dealer, who
14 presents a local law enforcement agency with a bill of sale
15 indicating that all firearms owned by the respondent that
16 are in the possession of the local law enforcement agency
17 have been sold by the respondent to the licensed gun
18 dealer, shall be given possession of those firearms, at the
19 location where a respondent's firearms are stored, within
20 five days of presenting the local law enforcement agency
21 with a bill of sale.

22 (j) The disposition of any unclaimed property under
23 this section shall be made pursuant to Section 1413 of the
24 Penal Code.

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

28 (2) The delivery of a firearm to a local law
29 enforcement agency person pursuant to this section shall
30 not be subject to the requirements of subdivision (d) of
31 Section 12072 of the Penal Code.

32 (3) The sale, delivery, or transfer of a firearm to a local
33 law enforcement agency pursuant to this section shall not
34 be subject to the requirements of subdivision (a) of
35 Section 12070 of the Penal Code.

36 (l) If the respondent notifies the court that he or she
37 owns a firearm that is not in his or her immediate
38 possession, the court may limit the order to exclude that
39 firearm if the judge is satisfied the respondent is unable

1 to gain access to that firearm while the protective order
2 is in effect.

3 (m) Any respondent to a protective order who violates
4 any order issued pursuant to this section shall be punished
5 under the provisions of subdivision (g) of Section 12021
6 of the Penal Code.

7 (n) Any respondent to a protective order who
8 complies with the provisions of this section *as to a*
9 *particular firearm* shall be exempt from the provisions of
10 subdivision (g) of Section 12021 of the Penal Code *as it*
11 *pertains to that firearm*.

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

14 11106. (a) In order to assist in the investigation of
15 crime, the arrest and prosecution of criminals, and the
16 recovery of lost, stolen, or found property, the Attorney
17 General shall keep and properly file a complete record of
18 all copies of fingerprints, copies of applications for
19 licenses to carry firearms issued pursuant to Section
20 12050, information reported to the Department of Justice
21 pursuant to Section 12053, dealers' records of sales of
22 firearms, reports provided pursuant to Section 12072 or
23 12078, forms provided pursuant to Section 12084, reports
24 provided pursuant to Section 12071 that are not dealers'
25 records of sales of firearms, and reports of stolen, lost,
26 found, pledged, or pawned property in any city or county
27 of this state, and shall, upon proper application therefor,
28 furnish to the officers mentioned in Section 11105, hard
29 copy printouts of those records as photographic,
30 photostatic, and nonerasable optically stored
31 reproductions.

32 (b) (1) Notwithstanding subdivision (a), the
33 Attorney General shall not retain or compile any
34 information from reports filed pursuant to subdivision (a)
35 of Section 12078 for firearms that are not pistols,
36 revolvers, or other firearms capable of being concealed
37 upon the person, from forms submitted pursuant to
38 Section 12084 for firearms that are not pistols, revolvers,
39 or other firearms capable of being concealed upon the
40 person, or from dealers' records of sales for firearms that

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

19 (2) A peace officer, the Attorney General, a
20 Department of Justice employee designated by the
21 Attorney General, or any authorized local law
22 enforcement employee shall not retain or compile any
23 information from a firearms transaction record, as
24 defined in paragraph (5) of subdivision (c) of Section
25 12071, for firearms that are not pistols, revolvers, or other
26 firearms capable of being concealed upon the person
27 unless retention or compilation is necessary for use in a
28 criminal prosecution or in a proceeding to revoke a
29 license issued pursuant to Section 12071.

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

31 (c) (1) The Attorney General shall permanently keep
32 and properly file and maintain all information reported
33 to the Department of Justice pursuant to Sections 12071,
34 12072, 12078, 12082, and 12084 or any other law, as to
35 pistols, revolvers, or other firearms capable of being
36 concealed upon the person and maintain a registry
37 thereof.

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

39 (A) The name, address, identification of, place of birth
40 (state or country), complete telephone number,

1 occupation, sex, description, and all legal names and
2 aliases ever used by the owner or person being loaned the
3 particular pistol, revolver, or other firearm capable of
4 being concealed upon the person as listed on the
5 information provided to the department on the Dealers'
6 Record of Sale, the Law Enforcement Firearms Transfer
7 (LEFT), as defined in Section 12084, or reports made to
8 the department pursuant to Section 12053, 12078, or any
9 other law.

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

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

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

30 (E) Information provided pursuant to paragraphs
31 (19) and (20) of subdivision (b) of Section 12071.

32 (F) Information provided pursuant to paragraph (8)
33 of subdivision (d) of Section 12084.

34 (3) Information in the registry referred to in this
35 subdivision shall, upon proper application therefor, be
36 furnished to the officers referred to in Section 11105 or to
37 the person listed in the registry as the owner or person
38 who is listed as being loaned the particular pistol,
39 revolver, or other firearm capable of being concealed
40 upon the person in the form of hard copy printouts of that

1 information as photographic, photostatic, and
2 nonerasable optically stored reproductions.

3 (4) If any person is listed in the registry as the owner
4 of a firearm through a Dealers' Record of Sale prior to
5 1979, and the person listed in the registry requests by
6 letter that the Attorney General store and keep the
7 record electronically, as well as in the record's existing
8 photographic, photostatic, or nonerasable optically
9 stored form, the Attorney General shall do so within three
10 working days of receipt of the request. The Attorney
11 General shall, in writing, and as soon as practicable, notify
12 the person requesting electronic storage of the record
13 that the request has been honored as required by this
14 paragraph.

15 SEC. 3. Section 12001 of the Penal Code is amended
16 to read:

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

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

31 (c) As used in Sections 12021, 12021.1, 12070, 12071,
32 12072, 12073, 12078, and 12101 of this code, and Sections
33 8100, 8101, and 8103 of the Welfare and Institutions Code,
34 the term "firearm" includes the frame or receiver of the
35 weapon.

36 (d) For the purposes of Sections 12025 and 12031, the
37 term "firearm" also shall include any rocket, rocket
38 propelled projectile launcher, or similar device
39 containing any explosive or incendiary material whether



1 or not the device is designed for emergency or distress
2 signaling purposes.

3 (e) For purposes of Sections 12070, 12071, and
4 paragraph (8) of subdivision (a), and subdivisions (b),
5 (c), (d), and (f) of Section 12072, the term “firearm” does
6 not include an unloaded firearm which is defined as an
7 “antique firearm” in Section 921(a)(16) of Title 18 of the
8 United States Code.

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

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

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

31 “Wholesaler” shall not include a manufacturer,
32 importer, or gunsmith who is licensed to engage in those
33 activities pursuant to Chapter 44 (commencing with
34 Section 921) of Title 18 of the United States Code or a
35 person licensed pursuant to Section 12071 and the
36 regulations issued pursuant thereto. A wholesaler also
37 does not include those persons dealing exclusively in
38 grips, stocks, and other parts of firearms that are not
39 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.

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

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

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

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

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

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

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

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

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

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

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

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

13 (6) He or she moves into this state on or after January
14 1, 1998, as a resident of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (c) (1) Except as provided in subdivision (a) or
32 paragraph (2) of this subdivision, any person who has
33 been convicted of a misdemeanor violation of Section 71,
34 76, 136.5, or 140, subdivision (d) of Section 148, Section
35 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5,
36 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9,
37 646.9, 12023, or 12024, subdivision (b) or (d) of Section
38 12034, Section 12040, subdivision (b) of Section 12072,
39 subdivision (a) of former Section 12100, Section 12220,
40 12320, or 12590, or Section 8100, 8101, or 8103 of the

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

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

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

38 (B) Finds that the petitioner is not within a prohibited
39 class as specified in subdivision (a), (b), (d), (e), or (g)
40 or Section 12021.1, and the court is not presented with any

1 credible evidence that the petitioner is a person
2 described in Section 8100 or 8103 of the Welfare and
3 Institutions Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (g) (1) Every person who purchases or receives, or
40 attempts to purchase or receive, a firearm knowing that

1 he or she is subject to a protective order as defined in
 2 Section 6218 of the Family Code, Section 136.2, or a
 3 temporary restraining order or injunction issued
 4 pursuant to Section 527.6 or 527.8 of the Code of Civil
 5 Procedure, is guilty of a public offense, which shall be
 6 punishable by imprisonment in a county jail not
 7 exceeding one year or in the state prison, by a fine not
 8 exceeding one thousand dollars (\$1,000), or by both that
 9 imprisonment and fine. This subdivision does not apply
 10 unless the copy of the restraining order personally served
 11 on the person against whom the restraining order is
 12 issued contains a notice in bold print stating (1) that the
 13 person is prohibited from purchasing or receiving or
 14 attempting to purchase or receive a firearm and (2)
 15 specifying the penalties for violating this subdivision, or
 16 a court has provided actual verbal notice of the firearm
 17 prohibition and penalty as provided in Section 6304 of the
 18 Family Code.

19 (2) Every person who ~~owns or~~ possesses a firearm
 20 knowing that he or she is prohibited from ~~owning or~~
 21 possessing a firearm by the provisions of a protective
 22 order as defined in Section 6218 of the Family Code,
 23 Section 136.2 of the Penal Code, or a temporary
 24 restraining order or injunction issued pursuant to Section
 25 527.6 or 527.8 of the Code of Civil Procedure, is guilty of
 26 a public offense, which shall be punishable by
 27 imprisonment in a county jail not exceeding one year, by
 28 a fine not exceeding one thousand dollars (\$1,000), or by
 29 both that imprisonment and fine. This subdivision does
 30 not apply unless a copy of the restraining order personally
 31 served on the person against whom the restraining order
 32 is issued contains a notice in bold print stating (1) that the
 33 person is prohibited from ~~owning or~~ possessing or
 34 attempting to ~~own or~~ possess a firearm and (2) specifying
 35 the penalties for violating this subdivision, or a court has
 36 provided actual verbal notice of the firearm prohibition
 37 and penalty as provided in Section 6304 of the Family
 38 Code.

39 (3) Judicial Council shall provide notice on all
 40 protective orders that the respondent is prohibited from

1 ~~owning~~, possessing, purchasing, or receiving a firearm
2 while the protective order is in effect and that the firearm
3 shall be relinquished to the local law enforcement agency
4 for that jurisdiction or sold to a licensed gun dealer, and
5 that proof of surrender or sale shall be filed within a
6 specified time of receipt of the order. The order shall also
7 state on its face the expiration date for relinquishment.

8 (4) If probation is granted upon conviction of a
9 violation of this subdivision, the court shall impose
10 probation consistent with the provisions of Section
11 1203.097.

12 (h) (1) A violation of subdivision (a), (b), (c), (d), or
13 (e) is justifiable where all of the following conditions are
14 met:

15 (A) The person found the firearm or took the firearm
16 from a person who was committing a crime against him
17 or her.

18 (B) The person possessed the firearm no longer than
19 was necessary to deliver or transport the firearm to a law
20 enforcement agency for that agency's disposition
21 according to law.

22 (C) If the firearm was transported to a law
23 enforcement agency, it was transported in accordance
24 with paragraph (18) of subdivision (a) of Section 12026.2.

25 (D) If the firearm is being transported to a law
26 enforcement agency, the person transporting the firearm
27 has given prior notice to the law enforcement agency that
28 he or she is transporting the firearm to the law
29 enforcement agency for disposition according to law.

30 (2) Upon the trial for violating subdivision (a), (b),
31 (c), (d), or (e), the trier of fact shall determine whether
32 the defendant was acting within the provisions of the
33 exemption created by this subdivision.

34 (3) The defendant has the burden of proving by a
35 preponderance of the evidence that he or she comes
36 within the provisions of the exemption created by this
37 subdivision.

38 SEC. 5. Section 12026.2 of the Penal Code is amended
39 to read:

1 12026.2. (a) Section 12025 does not apply to, or affect,
2 any of the following:

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

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

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

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

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

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

33 (7) The transportation of a firearm by a person when
34 going directly to, or coming directly from, a gun show,
35 swap meet, or similar event to which the public is invited,
36 for the purpose of displaying that firearm in a lawful
37 manner.

38 (8) The transportation of a firearm by an authorized
39 employee or agent of a supplier of firearms when going
40 directly to, or coming directly from, a motion picture,

1 television, or video production or entertainment event
2 for the purpose of providing that firearm to an authorized
3 participant to lawfully use as a part of that production or
4 event.

5 (9) The transportation of a firearm by a person when
6 going directly to, or coming directly from, a target range,
7 which holds a regulatory or business license, for the
8 purposes of practicing shooting at targets with that
9 firearm at that target range.

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

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

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

31 (13) The transportation of a firearm by a person in
32 order to comply with subdivision (c) or (i) of Section
33 12078 as it pertains to that firearm.

34 (14) The transportation of a firearm by a person in
35 order to utilize subdivision (l) of Section 12078 as it
36 pertains to that firearm.

37 (15) The transportation of a firearm by a person when
38 going directly to, or coming directly from, a gun show or
39 event, as defined in Section 178.100 of Title 27 of the Code
40 of Federal Regulations, for the purpose of lawfully



1 transferring, selling, or loaning that firearm in
2 accordance with subdivision (d) of Section 12072.

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

7 (17) The transportation of a firearm by a person who
8 finds the firearm in order to comply with Article 1
9 (commencing with Section 2080) of Chapter 4 of Division
10 3 of the Civil Code as it pertains to that firearm and if that
11 firearm is being transported to a law enforcement
12 agency, the person gives prior notice to the law
13 enforcement agency that he or she is transporting the
14 firearm to the law enforcement agency.

15 (18) The transportation of a firearm by a person who
16 finds the firearm or took it from a person committing a
17 crime against him or her and is transporting it to a law
18 enforcement agency for disposition according to law, if he
19 or she gives prior notice to the law enforcement agency
20 that he or she is transporting the firearm to the law
21 enforcement agency for disposition according to law.

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

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

28 (21) The transportation of a firearm by a person for the
29 purpose of obtaining an identification number or mark
30 assigned for that firearm from the Department of Justice
31 pursuant to Section 12092.

32 (22) The transportation of a firearm by a person for the
33 purpose of complying with the requirements of Section
34 6389 of the Family Code, provided that if the firearm is
35 being transported to a law enforcement agency for
36 disposition pursuant to Section 6389 of the Family Code,
37 he or she gives prior notice to the law enforcement
38 agency that he or she is transporting the firearm to the
39 law enforcement agency for disposition according to
40 Section 6389 of the Family Code.

1 (23) The transportation of a firearm by a person to
2 whom the firearm is being returned pursuant to law to a
3 place where it may legally be kept pursuant to Section
4 12026.

5 (b) In order for a firearm to be exempted under
6 subdivision (a), while being transported to or from a
7 place, the firearm shall be unloaded, kept in a locked
8 container, as defined in subdivision (d), and the course of
9 travel shall include only those deviations between
10 authorized locations as are reasonably necessary under
11 the circumstances.

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

16 (d) As used in this section, “locked container” means
17 a secure container that is fully enclosed and locked by a
18 padlock, key lock, combination lock, or similar locking
19 device. The term “locked container” does not include the
20 utility or glove compartment of a motor vehicle.

21 ~~SEC. 5.~~

22 *SEC. 6. Section 12030 of the Penal Code is amended*
23 *to read:*

24 12030. (a) The officer having custody of any firearms
25 ~~which~~ *that* may be useful to the California National
26 Guard, the Coast Guard Auxiliary, or to any military or
27 naval agency of the federal or state government,
28 including, but not limited to, the California National
29 Guard military museum and resource center, may, upon
30 the authority of the legislative body of the city, city and
31 county, or county by which he or she is employed and the
32 approval of the Adjutant General, deliver the firearms to
33 the commanding officer of a unit of the California
34 National Guard, the Coast Guard Auxiliary, or any other
35 military agency of the state or federal government in lieu
36 of destruction as required by this chapter. The officer
37 delivering the firearms shall take a receipt for them
38 containing a complete description thereof and shall keep
39 the receipt on file in his or her office as a public record.



1 (b) Any law enforcement agency—~~which~~ *that* has
 2 custody of any firearms, or any parts of any firearms,
 3 ~~which~~ *that* are subject to destruction as required by this
 4 chapter may, in lieu of destroying the weapons, retain and
 5 use any of them as may be useful in carrying out the
 6 official duties of the agency, or upon approval of a court,
 7 may release them to any other law enforcement agency
 8 for use in carrying out the official duties of that agency,
 9 or may turn over to the criminalistics laboratory of the
 10 Department of Justice or the criminalistics laboratory of
 11 a police department, sheriff's office, or district attorney's
 12 office any weapons which may be useful in carrying out
 13 the official duties of their respective agencies.

14 (c) Any firearm, or part of any firearm,—~~which~~ *that*,
 15 rather than being destroyed, is used for official purposes
 16 pursuant to this section shall be destroyed by the agency
 17 using the weapon when it is no longer needed by the
 18 agency for use in carrying out its official duties. In the case
 19 of firearms or weaponry donated to the California
 20 National Guard military museum and resource center,
 21 they may be disposed of pursuant to Section 179 of the
 22 Military and Veterans Code.

23 (d) Any law enforcement agency which has custody of
 24 any firearms, or any parts of any firearms,—~~which~~ *that* are
 25 subject to destruction as required by this chapter may, in
 26 lieu of destroying the firearms, obtain an order from the
 27 superior court directing the release of the firearms to the
 28 sheriff. The sheriff shall enter such weapons into the
 29 Automated Firearms System (AFS) with a complete
 30 description of each weapon, including the make, type,
 31 category, caliber, and serial number of the firearms, and
 32 the name of the academy receiving the weapon entered
 33 into the AFS miscellaneous field. The sheriff shall then
 34 release the firearms to the basic training academy
 35 certified by the Commission on Peace Officer Standards
 36 and Training, so that the firearms may be used for
 37 instructional purposes in the certified courses. As used in
 38 this section, the term "firearms" shall not include
 39 destructive devices, as defined in Section 12301. All



1 firearms released to an academy shall be under the care,
2 custody, and control of the particular academy.

3 Any firearms, or part of any firearms, ~~which~~ *that* is not
4 destroyed, and is used for the purposes authorized by this
5 section, shall be returned to the law enforcement agency
6 which had original custody of the firearms when it is no
7 longer needed by the basic training academy, or when
8 the basic training academy is no longer certified by the
9 commission.

10 (e) Any law enforcement agency that retains custody
11 of any firearm pursuant to this section or that destroys a
12 firearm pursuant to Section 12028 shall notify the
13 Department of Justice of the retention or destruction.
14 This notification shall consist of a complete description of
15 each firearm, including the name of the manufacturer or
16 brand name, model, caliber, and serial number.

17 (f) *Any law enforcement agency that returns a pistol,*
18 *revolver, or other firearm capable of being concealed*
19 *upon the person to its lawful owner pursuant to Section*
20 *12028 or 12028.5, shall enter the name of the agency*
21 *returning the firearm, the name of the person to whom*
22 *it is returned, and the make, model, serial number, and*
23 *other identifying characteristics of the firearm being*
24 *returned into the Automated Firearms System (AFS) via*
25 *the California Law Enforcement Telecommunications*
26 *System (CLETS). Those agencies without access to AFS*
27 *shall arrange with the sheriff of the county in which the*
28 *agency is located to input this information into the AFS.*

29 SEC. 7. Section 12070 of the Penal Code is amended
30 to read:

31 12070. (a) No person shall sell, lease, or transfer
32 firearms unless he or she has been issued a license
33 pursuant to Section 12071. Any person violating this
34 section is guilty of a misdemeanor.

35 (b) Subdivision (a) does not include any of the
36 following:

37 (1) The sale, lease, or transfer of any firearm by a
38 person acting pursuant to operation of law, a court order,
39 or pursuant to the Enforcement of Judgments Law (Title
40 9 (commencing with Section 680.010) of Part 2 of the

Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

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

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

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

(5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, by a person other than a licensee or dealer, provided the person has a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice, as specified in Section 12071, and provided all the sales, leases, or transfers fully comply with subdivision (d) of Section 12072. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

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

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

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

(6) The activities of a law enforcement agency pursuant to Section 12084.

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

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

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

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

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

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

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

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

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

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

19 (16) The delivery, sale, or transfer of an unloaded
20 firearm by one wholesaler to another wholesaler if that
21 firearm is intended as merchandise in the receiving
22 wholesaler's business.

23 (17) The loan of an unloaded firearm or the loan of a
24 firearm loaded with blank cartridges for use solely as a
25 prop for a motion picture, television, or video production
26 or entertainment or theatrical event.

27 (18) The delivery of an unloaded firearm that is a curio
28 or relic, as defined in Section 178.11 of Title 27 of the Code
29 of Federal Regulations, by a person licensed as a collector
30 pursuant to Chapter 44 (commencing with Section 921)
31 of Title 18 of the United States Code and the regulations
32 issued pursuant thereto with a current certificate of
33 eligibility issued pursuant to Section 12071 to a dealer.

34 (19) The loan of a firearm made by a licensed private
35 investigator licensed pursuant to Chapter 11.3
36 (commencing with Section 7512) of Division 3 of the
37 Business and Professions Code to an employee thereof
38 who has a permit or license to carry a firearm issued to
39 him or her by the Department of Consumer Affairs to



1 carry a firearm in the course and scope of his or her
2 employment.

3 (20) The loan of a firearm made by a private patrol
4 operator licensed pursuant to Chapter 11.5 (commencing
5 with Section 7580) of Division 3 of the Business and
6 Professions Code to an employee thereof who has a
7 permit or license to carry a firearm issued to him or her
8 by the Department of Consumer Affairs to carry a
9 firearm in the course and scope of his or her employment.

10 (21) The loan of a firearm made by an alarm company
11 operator licensed pursuant to Chapter 11.6 (commencing
12 with Section 7590) of Division 3 of the Business and
13 Professions Code to an employee thereof who has a
14 permit or license to carry a firearm issued to him or her
15 by the Department of Consumer Affairs to carry a
16 firearm in the course and scope of his or her employment.

17 (22) Sales, deliveries, or transfers of firearms by a law
18 enforcement agency to a wholesaler.

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

24 (24) The delivery of a firearm to a law enforcement
25 agency by a person who takes possession of a firearm after
26 finding that firearm or who took the firearm from a
27 person who was committing a crime against him or her.

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

29 (A) For pistols, revolvers, and other firearms capable
30 of being concealed upon the person, less than six
31 transactions per calendar year. For this purpose,
32 “transaction” means a single sale, lease, or transfer of any
33 number of pistols, revolvers, or other firearms capable of
34 being concealed upon the person.

35 (B) For firearms other than pistols, revolvers, or other
36 firearms capable of being concealed upon the person,
37 occasional and without regularity.

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



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

3 (B) A secured creditor or an agent or employee
4 thereof when the firearms are possessed as collateral for,
5 or as a result of, a default under a security agreement
6 under the Commercial Code.

7 (C) A levying officer, as defined in Section 481.140,
8 511.060, or 680.260 of the Code of Civil Procedure.

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

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

13 (F) An assignee for the benefit of creditors performing
14 his or her functions as an assignee, if the assignment
15 includes firearms.

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

18 (H) Firearms received by the family of a police officer
19 or deputy sheriff from a local agency pursuant to Section
20 50081 of the Government Code.

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

26 (J) The sale, delivery, or transfer of firearms by a
27 person who initially obtained title to those firearms as a
28 surviving spouse pursuant to Chapter 1 (commencing
29 with Section 13500) of Part 2 of Division 8 of the Probate
30 Code.

31 ~~SEC. 6.~~

32 *SEC. 8.* Section 12071 of the Penal Code is amended
33 to read:

34 12071. (a) (1) As used in this chapter, the term
35 “licensee,” “person licensed pursuant to Section 12071,”
36 or “dealer” means a person who has all of the following:

37 (A) A valid federal firearms license.

38 (B) Any regulatory or business license, or licenses,
39 required by local government.

1 (C) A valid seller's permit issued by the State Board of
2 Equalization.

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

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

7 (F) Is among those recorded in the centralized list
8 specified in subdivision (e).

9 (2) The duly constituted licensing authority of a city,
10 county, or a city and county shall accept applications for,
11 and may grant licenses permitting, licensees to sell
12 firearms at retail within the city, county, or city and
13 county. The duly constituted licensing authority shall
14 inform applicants who are denied licenses of the reasons
15 for the denial in writing.

16 (3) No license shall be granted to any applicant who
17 fails to provide a copy of his or her valid federal firearms
18 license, valid seller's permit issued by the State Board of
19 Equalization, and the certificate of eligibility described in
20 paragraph (4).

21 (4) A person may request a certificate of eligibility
22 from the Department of Justice and the Department of
23 Justice shall issue a certificate to an applicant if the
24 department's records indicate that the applicant is not a
25 person who is prohibited from possessing firearms.

26 (5) The department shall adopt regulations to
27 administer the certificate of eligibility program and shall
28 recover the full costs of administering the program by
29 imposing fees assessed to applicants who apply for those
30 certificates.

31 (6) A license granted by the duly constituted licensing
32 authority of any city, county, or city and county, shall be
33 valid for not more than one year from the date of issuance
34 and shall be in one of the following forms:

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

36 (B) A regulatory or business license that states on its
37 face "Valid for Retail Sales of Firearms" and is endorsed
38 by the signature of the issuing authority.

39 (C) A letter from the duly constituted licensing
40 authority having primary jurisdiction for the applicant's

1 intended business location stating that the jurisdiction
2 does not require any form of regulatory or business
3 license or does not otherwise restrict or regulate the sale
4 of firearms.

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

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

10 (1) (A) Except as provided in subparagraphs (B) and
11 (C), the business shall be conducted only in the buildings
12 designated in the license.

13 (B) A person licensed pursuant to subdivision (a) may
14 take possession of firearms and commence preparation of
15 registers for the sale, delivery, or transfer of firearms at
16 gun shows or events, as defined in Section 178.100 of Title
17 27 of the Code of Federal Regulations, or its successor, if
18 the gun show or event is not conducted from any
19 motorized or towed vehicle. A person conducting
20 business pursuant to this subparagraph shall be entitled
21 to conduct business as authorized herein at any gun show
22 or event in the state without regard to the jurisdiction
23 within this state that issued the license pursuant to
24 subdivision (a), provided the person complies with (i) all
25 applicable laws, including, but not limited to, the waiting
26 period specified in subparagraph (A) of paragraph (3),
27 and (ii) all applicable local laws, regulations, and fees, if
28 any.

29 A person conducting business pursuant to this
30 subparagraph shall publicly display his or her license
31 issued pursuant to subdivision (a), or a facsimile thereof,
32 at any gun show or event, as specified in this
33 subparagraph.

34 (C) A person licensed pursuant to subdivision (a) may
35 engage in the sale and transfer of firearms other than
36 pistols, revolvers, or other firearms capable of being
37 concealed upon the person, at events specified in
38 subdivision (g) of Section 12078, subject to the
39 prohibitions and restrictions contained in that
40 subdivision.

1 A person licensed pursuant to subdivision (a) also may
2 accept delivery of firearms other than pistols, revolvers,
3 or other firearms capable of being concealed upon the
4 person, outside the building designated in the license,
5 provided the firearm is being donated for the purpose of
6 sale or transfer at an auction or similar event specified in
7 subdivision (g) of Section 12078.

8 (D) The firearm may be delivered to the purchaser,
9 transferee, or person being loaned the firearm at one of
10 the following places:

- 11 (i) The building designated in the license.
- 12 (ii) The places specified in subparagraph (B) or (C).
- 13 (iii) The place of residence of, the fixed place of
14 business of, or on private property owned or lawfully
15 possessed by, the purchaser, transferee, or person being
16 loaned the firearm.

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

20 (3) No firearm shall be delivered:

21 (A) Within 10 days of the application to purchase, or,
22 after notice by the department pursuant to subdivision
23 (d) of Section 12076, within 10 days of the submission to
24 the department of any correction to the application, or
25 within 10 days of the submission to the department of any
26 fee required pursuant to subdivision (e) of Section 12076,
27 whichever is later.

28 (B) Unless unloaded and securely wrapped or
29 unloaded and in a locked container.

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

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

37 (4) No pistol, revolver, or other firearm or imitation
38 thereof capable of being concealed upon the person, or
39 placard advertising the sale or other transfer thereof, shall

1 be displayed in any part of the premises where it can
2 readily be seen from the outside.

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

6 (6) The licensee shall comply with Sections 12073,
7 12076, and 12077, subdivisions (a) and (b) of Section
8 12072, and subdivision (a) of Section 12316.

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

12 (A) ~~“IF YOU LEAVE KEEP A LOADED FIREARM~~
13 ~~WHERE A CHILD OBTAINS AND IMPROPERLY~~
14 ~~USES IT, YOU MAY BE FINED OR SENT TO PRISON.”~~
15 *WITHIN ANY PREMISES UNDER YOUR CUSTODY*
16 *OR CONTROL, AND A PERSON UNDER 16 YEARS OF*
17 *AGE OBTAINS IT AND USES IT, RESULTING IN*
18 *INJURY OR DEATH, OR CARRIES IT TO A PUBLIC*
19 *PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR*
20 *OR A FELONY, UNLESS YOU STORED THE*
21 *FIREARM IN A LOCKED CONTAINER OR LOCKED*
22 *THE FIREARM WITH A LOCKING DEVICE TO KEEP*
23 *IT FROM TEMPORARILY FUNCTIONING.”*

24 (B) ~~“IF YOU KEEP A LOADED FIREARM, OR A~~
25 ~~PISTOL, REVOLVER, OR OTHER FIREARM~~
26 ~~CAPABLE OF BEING CONCEALED UPON THE~~
27 ~~PERSON, WITHIN ANY PREMISES UNDER YOUR~~
28 ~~CUSTODY OR CONTROL, AND A PERSON UNDER~~
29 ~~16 YEARS OF AGE GAINS ACCESS TO THE~~
30 ~~FIREARM, AND CARRIES IT OFF-PREMISES, YOU~~
31 ~~MAY BE GUILTY OF A MISDEMEANOR OR A~~
32 ~~FELONY, UNLESS YOU STORED THE FIREARM IN A~~
33 ~~LOCKED CONTAINER, OR LOCKED THE FIREARM~~
34 ~~WITH A 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.

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

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

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

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

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

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

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

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

33 SEC. 9. Section 12072 of the Penal Code is amended
34 to read:

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

39 (2) No person, corporation, or dealer shall sell, supply,
40 deliver, or give possession or control of a firearm to any

1 person whom he or she has cause to believe to be within
2 any of the classes prohibited by Section 12021 or 12021.1
3 of this code or Section 8100 or 8103 of the Welfare and
4 Institutions Code.

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

7 (B) Subparagraph (A) shall not apply to or affect those
8 circumstances set forth in subdivision (p) of Section
9 12078.

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

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

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

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

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

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

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

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

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

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

37 (8) No person shall sell or otherwise transfer his or her
38 ownership in a pistol, revolver, or other firearm capable
39 of being concealed upon the person unless the firearm
40 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 Chapter 44
24 (commencing with Section 921) of Title 18 of the United
25 States Code, and transports that firearm into this state,
26 within five days of that licensed collector transporting
27 that firearm into this state, he or she shall report to the
28 department in a format prescribed by the department his
29 or her acquisition of that firearm.

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

36 (B) Paragraphs (2) and (3) shall not apply to a person
37 who reports his or her ownership of a pistol, revolver, or
38 other firearm capable of being concealed upon the
39 person after the applicable grace period specified in
40 paragraph (2) or (3) expires if evidence of that violation



1 arises only as the result of the person submitting the
2 report described in paragraph (2) or (3).

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

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

8 (A) If the violation is of paragraph (1) of subdivision
9 (a).

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

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

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

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

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

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

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

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

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



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

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

(F) A violation of subdivision (e).

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

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

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

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

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

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

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

~~SEC. 8.~~

SEC. 10. Section 12073 of the Penal Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

~~SEC. 9.~~

SEC. 11. Section 12076 of the Penal Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) To the extent that funding is available, the
35 Department of Justice may participate in the National
36 Instant Criminal Background Check System (NICS), as
37 described in subsection (t) of Section 922 of Title 18 of the
38 United States Code, and, if that participation is
39 implemented, shall notify the dealer and the chief of the
40 police department of the city or city and county in which

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

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

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

33 (5) If the department determines that the information
34 transmitted to it pursuant to subdivision (c) contains
35 inaccurate or incomplete information preventing
36 identification of the purchaser or the pistol, revolver, or
37 other firearm capable of being concealed upon the
38 person to be purchased, or if the fee required pursuant to
39 subdivision (e) is not transmitted by the dealer in
40 conjunction with transmission of the electronic or

1 telephonic record, the department may notify the dealer
2 of that fact. Upon notification by the department, the
3 dealer shall transmit corrections to the record of
4 electronic or telephonic transfer to the department, or
5 shall transmit any fee required pursuant to subdivision
6 (e), or both, as appropriate, and if notification by the
7 department is received by the dealer at any time prior to
8 delivery of the firearm to be purchased, the dealer shall
9 withhold delivery until the conclusion of the waiting
10 period described in Sections 12071 and 12072.

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

20 (1) (A) The department for the cost of furnishing this
21 information.

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

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

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

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

36 (5) Local law enforcement agencies for
37 state-mandated local costs resulting from the notification
38 requirements set forth in subdivision (a) of Section 6385
39 of the Family Code.

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

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

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

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

14 The fee established pursuant to this subdivision shall
15 not exceed the sum of the actual processing costs of the
16 department, the estimated reasonable costs of the local
17 mental health facilities for complying with the reporting
18 requirements imposed by paragraph (2) of this
19 subdivision, the costs of the State Department of Mental
20 Health for complying with the requirements imposed by
21 paragraph (3) of this subdivision, the estimated
22 reasonable costs of local mental hospitals, sanitariums,
23 and institutions for complying with the reporting
24 requirements imposed by paragraph (4) of this
25 subdivision, the estimated reasonable costs of local law
26 enforcement agencies for complying with the
27 notification requirements set forth in subdivision (a) of
28 Section 6385 of the Family Code, the estimated
29 reasonable costs of local law enforcement agencies for
30 complying with the notification requirements set forth in
31 subdivision (c) of Section 8105 of the Welfare and
32 Institutions Code imposed by paragraph (6) of this
33 subdivision, the estimated reasonable costs of the
34 Department of Food and Agriculture for the costs
35 resulting from the notification provisions set forth in
36 Section 5343.5 of the Food and Agricultural Code, and the
37 estimated reasonable costs of the department for the costs
38 associated with subparagraph (D) of paragraph (2) of
39 subdivision (f) of Section 12072.



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

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

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

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

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

(E) For the actual costs associated with all of the following:

(i) The development of a system to report information pursuant to paragraph (20) of subdivision (b) of Section 12071.

(ii) The administration of a system to report information pursuant to paragraph (20) of subdivision (b) of Section 12071.

(iii) The system to report information pursuant to paragraph (20) of subdivision (b) of Section 12071.

1 (F) For the actual costs associated with all of the
2 following:

3 (i) The development of a system to report information
4 pursuant to paragraph (8) of subdivision (d) of Section
5 12084.

6 (ii) The administration of a system to report
7 information pursuant to paragraph (8) of subdivision (d)
8 of Section 12084.

9 (iii) The system to report information pursuant to
10 paragraph (8) of subdivision (d) of Section 12084.

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

15 (3) Any costs incurred by the Department of Justice to
16 implement this subdivision shall be reimbursed from fees
17 collected and charged pursuant to this subdivision. No
18 fees shall be charged to the dealer pursuant to subdivision
19 (e) or to a law enforcement agency acting pursuant to
20 paragraph (6) of subdivision (d) of Section 12084 for costs
21 incurred for implementing this subdivision.

22 (g) All money received by the department pursuant to
23 this section shall be deposited in the Dealers' Record of
24 Sale Special Account of the General Fund, which is
25 hereby created, to be available, upon appropriation by
26 the Legislature, for expenditure by the department to
27 offset the costs incurred pursuant to this section,
28 subparagraph (D) of paragraph (2) of subdivision (f) of
29 Section 12072, and Sections 12289 and 12809.

30 (h) Where the electronic or telephonic transfer of
31 applicant information is used, the department shall
32 establish a system to be used for the submission of the fees
33 described in subdivision (e) to the department.

34 (i) (1) Only one fee shall be charged pursuant to this
35 section for a single transaction on the same date for the
36 sale of any number of firearms that are not pistols,
37 revolvers, or other firearms capable of being concealed
38 upon the person or for the taking of possession of those
39 firearms.

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

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

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

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

(1) "Purchaser" means the purchaser or transferee of a firearm or a 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.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

~~SEC. 10.~~

SEC. 12. 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

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

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

1 employed. Within 10 days of the date a pistol, revolver, or
2 other firearm capable of being concealed upon the
3 person is acquired by the agency, a record of the same
4 shall be entered as an institutional weapon into the
5 Automated Firearms System (AFS) via the California
6 Law Enforcement Telecommunications System
7 (CLETS) by the law enforcement or state agency. 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 (3) The preceding provisions of this article do not
12 apply to the loan of a firearm made by an authorized law
13 enforcement representative of a city, county, or city and
14 county, or the state or federal government to a peace
15 officer employed by that agency and authorized to carry
16 a firearm for the carrying and use of that firearm by that
17 peace officer in the course and scope of his or her duties.

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

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

1 firearm capable of being concealed upon the person is
2 sold, delivered, or transferred to that retiring peace
3 officer, the name of the officer and the make, model,
4 serial 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 via this system.

13 (6) Subdivision (d) of Section 12072 does not apply to
14 sales, deliveries, or transfers of firearms to authorized
15 representatives of cities, cities and counties, counties, or
16 state or federal governments for those governmental
17 agencies where the entity is acquiring the weapon as part
18 of an authorized, voluntary program where the entity is
19 buying or receiving weapons from private individuals.
20 Any weapons acquired pursuant to this paragraph shall be
21 disposed of pursuant to the applicable provisions of
22 Section 12028 or 12032, *provided that no firearm received*
23 *pursuant to this paragraph may be resold or transferred*
24 *to the public, or to persons licensed pursuant to Section*
25 *12071.*

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

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



(C) Unless the employing agency's regulations set a shorter period of time, within 24 hours of a peace officer coming into possession of a firearm pursuant to subparagraph (A), the officer shall cause that firearm to be delivered to his or her employing agency, unless that officer must by law immediately return the same to the person who he or she took the firearm from.

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

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

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

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

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

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

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

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

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

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

(E) Prior to delivery, the entity receiving the firearm agrees in writing that the firearm will not be restored to

1 operating condition, and will either remain with that
2 entity, or if subsequently disposed of, will be transferred,
3 in accordance with the provisions of this article.

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

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

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

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

28 (C) Prior to delivery, the entity receiving the firearm
29 agrees in writing that the firearm will not be restored to
30 operating condition, and will either remain with that
31 entity, or if subsequently disposed of, will be transferred,
32 in accordance with the provisions of this article.

33 (D) On the date that the firearm is sold, delivered, or
34 transferred to that entity, if the firearm is a pistol,
35 revolver, or other firearm capable of being concealed
36 upon the person or entity, the parties to the transaction
37 shall forward by prepaid mail or deliver in person to the
38 Department of Justice, a single report signed by both
39 parties to the transaction, that includes information
40 concerning the entity taking possession of the firearm,



1 how title was obtained and from whom, and a description
2 of the firearm in question. The report forms that are to be
3 completed pursuant to this paragraph shall be provided
4 to them by the Department of Justice.

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

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

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

23 (C) The firearms are part of a transaction involving a
24 trade or exchange of firearms wherein that agency is
25 receiving other firearms pursuant to paragraph (2) or
26 where the firearms are being returned to that wholesaler.

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

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

8 (E) The transaction complies with Chapter 44
9 (commencing with Section 921) of Title 18 of the United
10 States Code and the regulations issued pursuant to that
11 chapter.

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

34 (B) In any case where a law enforcement agency
35 destroys any pistol, revolver, or other firearm capable of
36 being concealed upon the person that is not a nuisance
37 weapon subject to the provisions of Section 12028, 12028.5,
38 12030, or 12032, within 10 days of the same shall notify the
39 department of the same. This notification shall consist of
40 a complete description of each firearm, including the



1 name of the manufacturer or brand name, model, caliber,
2 and serial number. That information shall be entered into
3 the Automated Firearms System (AFS) via the California
4 Law Enforcement Telecommunications System
5 (CLETS) by the law enforcement or state agency that
6 destroyed the firearm. Those agencies without access to
7 AFS shall arrange with the sheriff of the county in which
8 the agency is located to input this information via CLETS.

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

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

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

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

1 (B) Prior to taking possession of the firearm, the
2 person taking title to the firearm shall obtain a basic
3 firearm safety certificate.

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

6 (A) Parent and child.

7 (B) Grandparent and grandchild.

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

12 (e) Section 12071 and subdivisions (c) and (d) of
13 Section 12072 shall not apply to the delivery of a firearm
14 to a gunsmith for service or repair or the return of a
15 firearm to its owner by a gunsmith who has serviced or
16 repaired that firearm.

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

26 (g) (1) Subdivision (d) of Section 12072 shall not
27 apply to the infrequent sale or transfer of a firearm, other
28 than a pistol, revolver, or other firearm capable of being
29 concealed upon the person, at auctions or similar events
30 conducted by nonprofit mutual or public benefit
31 corporations organized pursuant to the Corporations
32 Code.

33 As used in this paragraph, the term “infrequent” shall
34 not be construed to prohibit different local chapters of
35 the same nonprofit corporation from conducting auctions
36 or similar events, provided the individual local chapter
37 conducts the auctions or similar events infrequently. It is
38 the intent of the Legislature that different local chapters,
39 representing different localities, be entitled to invoke the
40 exemption created by this paragraph, notwithstanding

1 the frequency with which other chapters of the same
2 nonprofit corporation may conduct auctions or similar
3 events.

4 (2) Subdivision (d) of Section 12072 shall not apply to
5 the transfer of a firearm other than a pistol, revolver, or
6 other firearm capable of being concealed upon the
7 person, if the firearm is donated for an auction or similar
8 event described in paragraph (1) and the firearm is
9 delivered to the nonprofit corporation immediately
10 preceding, or contemporaneous with, the auction or
11 similar event.

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

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

38 (2) Subdivision (d) of Section 12072 shall not apply to
39 the loan of a firearm made by a licensed private
40 investigator licensed pursuant to Chapter 11.3

1 (commencing with Section 7512) of Division 3 of the
2 Business and Professions Code to an employee thereof
3 who has a permit or license to carry a firearm issued to
4 him or her by the Department of Consumer Affairs to
5 carry a firearm in the course and scope of his or her
6 employment.

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

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

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

30 (2) Subdivision (d) of Section 12072 shall not apply to
31 a person who takes title or possession of a pistol, revolver,
32 or other firearm capable of being concealed upon the
33 person by operation of law if the person is not prohibited
34 by Section 12021 or 12021.1 of this code or Section 8100 or
35 8103 of the Welfare and Institutions Code from possessing
36 firearms and all of the following conditions are met:

37 (A) If the person taking title or possession is neither a
38 levying officer as defined in Section 481.140, 511.060, or
39 680.210 of the Code of Civil Procedure, nor a person who
40 is receiving that firearm pursuant to subparagraph (G),



1 (I), or (J) of paragraph (2) of subdivision (u), the person
2 shall, within 30 days of taking possession, forward by
3 prepaid mail or deliver in person to the Department of
4 Justice, a report of information concerning the individual
5 taking possession of the firearm, how title or possession
6 was obtained and from whom, and a description of the
7 firearm in question. The reports that individuals
8 complete pursuant to this paragraph shall be provided to
9 them by the department.

10 (B) If the person taking title or possession is receiving
11 the firearm pursuant to subparagraph (G) of paragraph
12 (2) of subdivision (u), the person shall do both of the
13 following:

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

22 (ii) Prior to taking possession of the firearm, the
23 person shall either obtain a basic firearms safety
24 certificate or be exempt from obtaining a basic firearms
25 safety certificate pursuant to Section 12081.

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

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

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

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

35 (j) Subdivision (d) of Section 12072 shall not apply to
36 deliveries, transfers, or returns of firearms made pursuant
37 to Section 12028, 12028.5, 12030, or 12032.

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



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

6 (2) The delivery, sale, or transfer of unloaded firearms
7 by dealers to persons who reside outside this state who are
8 licensed pursuant to Chapter 44 (commencing with
9 Section 921) of Title 18 of the United States Code and the
10 regulations issued pursuant thereto.

11 (3) The delivery, sale, or transfer of unloaded firearms
12 to a wholesaler if the firearms are being returned to the
13 wholesaler and are intended as merchandise in the
14 wholesaler's business.

15 (4) The delivery, sale, or transfer of unloaded firearms
16 by one dealer to another dealer if the firearms are
17 intended as merchandise in the receiving dealer's
18 business upon proof that the person receiving the firearm
19 is licensed pursuant to Section 12071.

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

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

35 (I) A person who is exempt from subdivision (d) of
36 Section 12072 or is otherwise not required by law to report
37 his or her acquisition, ownership, or disposal of a pistol,
38 revolver, or other firearm capable of being concealed
39 upon the person or who moves out of this state with his
40 or her pistol, revolver, or other firearm capable of being

1 concealed upon the person may submit a report of the
2 same to the Department of Justice in a format prescribed
3 by the department.

4 (m) Subdivision (d) of Section 12072 shall not apply to
5 the delivery, sale, or transfer of unloaded firearms to a
6 wholesaler as merchandise in the wholesaler's business by
7 manufacturers or importers licensed to engage in that
8 business pursuant to Chapter 44 (commencing with
9 Section 921) of Title 18 of the United States Code and the
10 regulations issued pursuant thereto, or by another
11 wholesaler, if the delivery, sale, or transfer is made in
12 accordance with Chapter 44 (commencing with Section
13 921) of Title 18 of the United States Code.

14 (n) (1) The waiting period described in Section 12071
15 or 12072 shall not apply to the delivery, sale, or transfer
16 of a pistol, revolver, or other firearm capable of being
17 concealed upon the person by a dealer in either of the
18 following situations:

19 (A) The dealer is delivering the firearm to another
20 dealer and it is not intended as merchandise in the
21 receiving dealer's business.

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

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

27 (A) If the dealer is receiving the firearm from another
28 dealer, the dealer receiving the firearm shall present
29 proof to the dealer delivering the firearm that he or she
30 is licensed pursuant to Section 12071.

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

1 the dealer delivering the firearm shall transmit an
2 electronic or telephonic report of the same and the type
3 of information concerning the purchaser or transferee as
4 is indicated in subdivision (b) of Section 12077.

5 (o) Section 12071 and subdivisions (c) and (d) of
6 Section 12072 shall not apply to the delivery, sale, or
7 transfer of firearms regulated pursuant to Section 12020,
8 Chapter 2 (commencing with Section 12200), or Chapter
9 2.3 (commencing with Section 12275), if the delivery,
10 sale, or transfer is conducted in accordance with the
11 applicable provisions of Section 12020, Chapter 2
12 (commencing with Section 12200), or Chapter 2.3
13 (commencing with Section 12275).

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

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

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

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

39 (C) The duration of the loan does not exceed the
40 amount of time that is reasonably necessary to engage in

1 the lawful, recreational sport, including, but not limited
2 to, competitive shooting, or agricultural, ranching, or
3 hunting activity, or a motion picture, television, or video
4 production, or entertainment or theatrical event, the
5 nature of which involves the use of a firearm.

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

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

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

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

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

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

39 (q) Subdivision (d) of Section 12072 shall not apply to
40 the loan of a firearm that is not a pistol, revolver, or other

1 firearm capable of being concealed upon the person to a
2 licensed hunter for use by that licensed hunter for a
3 period of time not to exceed the duration of the hunting
4 season for which that firearm is to be used.

5 (r) The waiting period described in Section 12071,
6 12072, or 12084 shall not apply to the delivery, sale, or
7 transfer of a firearm to the holder of a special weapons
8 permit issued by the Department of Justice issued
9 pursuant to Section 12095, 12230, 12250, or 12305. On the
10 date that the application to purchase is completed, the
11 dealer delivering the firearm or the law enforcement
12 agency processing the transaction pursuant to Section
13 12084, shall forward by prepaid mail to the Department
14 of Justice a report of the same as described in subdivision
15 (b) or (c) of Section 12077 or Section 12084. If the
16 electronic or telephonic transfer of applicant information
17 is used, on the date that the application to purchase is
18 completed, the dealer delivering the firearm shall
19 transmit to the Department of Justice an electronic or
20 telephonic report of the same as is indicated in
21 subdivision (b) or (c) of Section 12077.

22 (s) Subdivision (d) of Section 12072 shall not apply to
23 the loan of an unloaded firearm or the loan of a firearm
24 loaded with blank cartridges for use solely as a prop for
25 a motion picture, television, or video production or an
26 entertainment or theatrical event.

27 (t) (1) The waiting period described in Sections
28 12071, 12072, and 12084 shall not apply to the sale,
29 delivery, loan, or transfer of a firearm that is a curio or
30 relic, as defined in Section 178.11 of Title 27 of the Code
31 of Federal Regulations, by a dealer or through a law
32 enforcement agency to a person who is licensed as a
33 collector pursuant to Chapter 44 (commencing with
34 Section 921) of Title 18 of the United States Code and the
35 regulations issued pursuant thereto who has a current
36 certificate of eligibility issued to him or her by the
37 Department of Justice pursuant to Section 12071. On the
38 date that the delivery, sale, or transfer is made, the dealer
39 delivering the firearm or the law enforcement agency
40 processing the transaction pursuant to Section 12084, shall

1 forward by prepaid mail to the Department of Justice a
2 report of the transaction pursuant to subdivision (b) of
3 Section 12077 or Section 12084. If the electronic or
4 telephonic transfer of applicant information is used, on
5 the date that the application to purchase is completed,
6 the dealer delivering the firearm shall transmit to the
7 Department of Justice an electronic or telephonic report
8 of the transaction as is indicated in subdivision (b) or (c)
9 of Section 12077.

10 (2) Subdivision (d) of Section 12072 shall not apply to
11 the infrequent sale, loan, or transfer of a firearm that is
12 not a pistol, revolver, or other firearm capable of being
13 concealed upon the person, which is a curio or relic
14 manufactured at least 50 years prior to the current date,
15 but not including replicas thereof, as defined in Section
16 178.11 of Title 27 of the Code of Federal Regulations.

17 (u) As used in this section:

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

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

24 (A) The executor or administrator of an estate if the
25 estate includes firearms.

26 (B) A secured creditor or an agent or employee
27 thereof when the firearms are possessed as collateral for,
28 or as a result of, a default under a security agreement
29 under the Commercial Code.

30 (C) A levying officer, as defined in Section 481.140,
31 511.060, or 680.260 of the Code of Civil Procedure.

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

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

36 (F) An assignee for the benefit of creditors performing
37 his or her functions as an assignee, if the assignment
38 includes firearms.

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



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

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 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.

~~SEC. 11.~~

SEC. 13. Section 12084 of the Penal Code is amended to read:

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

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

(2) “Seller” means the seller or transferor of a firearm or the person loaning the firearm.

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

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

(5) “Department” means the Department of Justice.

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

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

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four

1 duplicates for the making of carbon copies. The original
2 and duplicate copies shall differ in color, and shall be in
3 the form provided by this section. The State Printer, upon
4 issuing the LEFT, shall forward to the department the
5 name and address of the agency together with the series
6 and sheet numbers on the LEFT. The LEFT shall not be
7 transferable.

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

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

27 (4) Ink shall be used to complete each LEFT. The
28 agency shall ensure that all information is provided
29 legibly. The purchaser and seller shall be informed that
30 incomplete or illegible information delays purchases.

31 (5) Each original LEFT shall contain instructions
32 regarding the procedure for completion of the form and
33 the routing of the form. The agency shall comply with
34 these instructions which shall include the information set
35 forth in this subdivision.

36 (6) One firearm transaction shall be reported on each
37 LEFT. For purposes of this paragraph, a “transaction”
38 means a single sale, loan, or transfer of any number of
39 firearms that are not pistols, revolvers, or other firearms

1 capable of being concealed upon the person between the
2 same two persons.

3 (d) The following procedures shall be followed in
4 processing the purchase:

5 (1) Without waiting for the conclusion of any waiting
6 period to elapse, the seller shall immediately deliver the
7 firearm to the agency solely to complete the LEFT. Upon
8 completion of the LEFT, the firearm shall be
9 immediately returned by the agency to the seller without
10 waiting for the waiting period to elapse.

11 (2) The purchaser shall be required to present clear
12 evidence of his or her identity and age, as defined in
13 Section 12071, to the agency. The agency shall require the
14 purchaser to complete the original and one copy of the
15 LEFT. An employee of the agency shall then affix his or
16 her signature as a witness to the signature and
17 identification of the purchaser.

18 (3) Two copies of the LEFT shall, on that date of
19 purchase, be placed in the mail, postage prepaid to the
20 department at Sacramento. The third copy shall be
21 provided to the purchaser and the fourth copy to the
22 seller.

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

30 (5) If the department determines that the copies of
31 the LEFT submitted to it pursuant to paragraph (3)
32 contain any blank spaces or inaccurate, illegible, or
33 incomplete information, preventing identification of the
34 purchaser or the firearm to be purchased, or if any fee
35 required pursuant to paragraph (6) is not submitted by
36 the agency in conjunction with submission of the copies
37 of the LEFT, or if the department determines that the
38 person is a person described in Section 12021 or 12021.1
39 of this code or Section 8100 or 8103 of the Welfare and
40 Institutions Code, it shall immediately notify the agency

1 of that fact. Upon notification by the department, the
2 purchaser shall submit any fee required pursuant to
3 paragraph (6), as appropriate, and, if notification by the
4 department is received by the agency at any time prior
5 to delivery of the firearm, the delivery of the firearm shall
6 be withheld until the conclusion of the waiting period
7 described in paragraph (7).

8 (6) (A) The agency may charge a fee, not to exceed
9 actual cost, sufficient to reimburse the agency for
10 processing the transfer.

11 (B) The department may charge a fee, not to exceed
12 actual cost, sufficient to reimburse the department for
13 providing the information. The department shall charge
14 the same fee that it would charge a dealer pursuant to
15 Section 12082.

16 (7) The firearm shall not be delivered to the purchaser
17 as follows:

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

1 (B) Unless unloaded.

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

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

7 (E) Whenever the agency is notified by the
8 department that the person is in a prohibited class
9 described in Section 12021 or 12021.1, or Section 8100 or
10 8103 of the Welfare and Institutions Code.

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

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

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

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

25 (B) Commencing July 1, 2003, on the date that the
26 seller delivers a pistol, revolver, or other firearm capable
27 of being concealed upon the person to the purchaser, he
28 or she shall report to the Department of Justice in a
29 manner and format prescribed by the department the
30 date and time he or she delivered that pistol, revolver, or
31 other firearm capable of being concealed upon the
32 person to that purchaser.

33 (e) The action of a law enforcement agency acting
34 pursuant to Section 12084 shall be deemed to be a
35 discretionary act within the meaning of the California
36 Tort Claims Act pursuant to Division 3.6 (commencing
37 with Section 810) of Title 1 of the Government Code.

38 (f) Whenever the Department of Justice acts pursuant
39 to this section as it pertains to firearms other than pistols,
40 revolvers, or other firearms capable of being concealed

1 upon the person, its acts or omissions shall be deemed to
2 be discretionary within the meaning of the California
3 Tort Claims Act pursuant to Division 3.6 (commencing
4 with Section 810) of Title 1 of the Government Code.

5 (g) Any person furnishing a fictitious name or address
6 or knowingly furnishing any incorrect information or
7 knowingly omitting any information required to be
8 provided for the LEFT is guilty of a misdemeanor.

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

12 ~~SEC. 12.~~

13 *SEC. 14.* Chapter 1180 of the Statutes of 1988 shall be
14 known, and may be cited as, the Klehs Safe and
15 Responsible Firearms Transfer Act of 1988.

16 ~~SEC. 13.~~

17 *SEC. 15.* Chapter 462 of the Statutes of 1997 shall be
18 known as, and may be cited as, the
19 Shelley-Alpert-Ducheney Pistol-Revolver
20 Parity Act of 1997.

21 ~~SEC. 14.~~

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

32 ~~SEC. 15.~~

33 *SEC. 17.* The amendment to subdivision (k) of, and
34 the addition of subdivision (n) to, Section 6389 of the
35 Family Code, made by Section 1 of this act, are
36 declaratory of existing law.

37 ~~SEC. 16.~~

38 *SEC. 18.* (a) *The Legislature finds and declares all of*
39 *the following:*

1 (1) Current state firearms laws do not delineate a clear
2 and succinct general procedure on how persons who
3 legally acquire firearms and who subsequently fall within
4 a class of persons prohibited from possessing firearms
5 shall dispose of the firearm and thereby avoid criminal
6 liability for possession or disposing of the firearm.

7 (2) Other states through various means have
8 addressed the issue described in paragraph (1) through
9 a statute of general application.

10 (b) The Attorney General shall prepare and submit to
11 the Legislature, on or before June 1, 2001, a report
12 concerning all of the following:

13 (1) Recommending a clear and succinct general
14 procedure on how persons who legally acquire firearms
15 and who subsequently fall within a class of persons
16 prohibited from possessing a firearm shall dispose of the
17 firearm and thereby avoid criminal liability for possession
18 or disposing of the firearm.

19 (2) What specific changes in language and references
20 to code sections, and conforming changes to code
21 sections, in state firearms statutes are needed to establish
22 a procedure described in paragraph (1).

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

33 However, notwithstanding Section 17610 of the
34 Government Code, if the Commission on State Mandates
35 determines that this act contains other costs mandated by
36 the state, reimbursement to local agencies and school
37 districts for those costs shall be made pursuant to Part 7
38 (commencing with Section 17500) of Division 4 of Title
39 2 of the Government Code. If the statewide cost of the
40 claim for reimbursement does not exceed one million

1 dollars (\$1,000,000), reimbursement shall be made from
2 the State Mandates Claims Fund.

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