

AMENDED IN ASSEMBLY AUGUST 14, 2000

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, Perata, and Solis**

December 7, 1998

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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, ~~12030~~, and ~~12078~~ 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)~~

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

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

~~(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.~~

~~(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.~~

~~(8)~~

~~(4) 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.~~

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

~~(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.~~

~~(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.~~

~~(12)~~

~~(5) This bill would declare findings by the Legislature.~~

~~(6) This bill would incorporate additional changes in Section 12021 of the Penal Code proposed by AB 1989, to become operative if both this bill and AB 1989 are enacted and become effective on or before January 1, 2001, and this bill is enacted last.~~

(7) 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 possess, purchase, or  
5 receive a firearm while that protective order is in effect.

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

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

32 (d) If the respondent declines to relinquish possession  
33 of any firearm based upon the assertion of the right  
34 against self-incrimination, as provided by the Fifth  
35 Amendment to the United States Constitution and  
36 Section 15 of Article I of the California Constitution, the  
37 court may grant use immunity for the act of relinquishing  
38 the firearm required under this section.

39 (e) A local law enforcement agency may charge the  
40 respondent a fee for the storage of any firearm pursuant

1 to this section. This fee shall not exceed the actual cost  
2 incurred by the local law enforcement agency for the  
3 storage of the firearm. For purposes of this subdivision,  
4 “actual cost” means expenses directly related to taking  
5 possession of a firearm, storing the firearm, and  
6 surrendering possession of the firearm to a licensed  
7 dealer as defined in Section 12071 of the Penal Code or to  
8 the respondent.

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

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

1 possessing any firearm, the respondent shall be entitled  
2 to sell or transfer the firearm to a licensed dealer as  
3 defined in Section 12071 of the Penal Code. If the firearm  
4 has been stolen, the firearm shall be restored to the lawful  
5 owner upon his or her identification of the firearm and  
6 proof of ownership.

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

23 (h) The court may, as part of the relinquishment  
24 order, grant an exemption from the relinquishment  
25 requirements of this section for a particular firearm if the  
26 respondent can show that a particular firearm is  
27 necessary as a condition of continued employment and  
28 that the current employer is unable to reassign the  
29 respondent to another position where a firearm is  
30 unnecessary. If an exemption is granted pursuant to this  
31 subdivision, the order shall provide that the firearm shall  
32 be in the physical possession of the respondent only  
33 during scheduled work hours and during travel to and  
34 from his or her place of employment. In any case  
35 involving a peace officer who as a condition of  
36 employment and whose personal safety depends on the  
37 ability to carry a firearm, a court may allow the peace  
38 officer to continue to carry a firearm, either on duty or off  
39 duty, if the court finds by a preponderance of the  
40 evidence that the officer does not pose a threat of harm.

1 Prior to making this finding, the court shall require a  
2 mandatory psychological evaluation of the peace officer  
3 and may require the peace officer to enter into  
4 counseling or other remedial treatment program to deal  
5 with any propensity for domestic violence.

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

18 (j) The disposition of any unclaimed property under  
19 this section shall be made pursuant to Section 1413 of the  
20 Penal Code.

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

24 (2) The delivery of a firearm to a local law  
25 enforcement agency person pursuant to this section shall  
26 not be subject to the requirements of subdivision (d) of  
27 Section 12072 of the Penal Code.

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

32 (l) If the respondent notifies the court that he or she  
33 owns a firearm that is not in his or her immediate  
34 possession, the court may limit the order to exclude that  
35 firearm if the judge is satisfied the respondent is unable  
36 to gain access to that firearm while the protective order  
37 is in effect.

38 (m) Any respondent to a protective order who violates  
39 any order issued pursuant to this section shall be punished





1 under the provisions of subdivision (g) of Section 12021  
2 of the Penal Code.

3 (n) Any respondent to a protective order who  
4 complies with the provisions of this section as to a  
5 particular firearm shall be exempt from the provisions of  
6 subdivision (g) of Section 12021 of the Penal Code as it  
7 pertains to that firearm.

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

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

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

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

~~15 (2) A peace officer, the Attorney General, a  
16 Department of Justice employee designated by the  
17 Attorney General, or any authorized local law  
18 enforcement employee shall not retain or compile any  
19 information from a firearms transaction record, as  
20 defined in paragraph (5) of subdivision (c) of Section  
21 12071, for firearms that are not pistols, revolvers, or other  
22 firearms capable of being concealed upon the person  
23 unless retention or compilation is necessary for use in a  
24 criminal prosecution or in a proceeding to revoke a  
25 license issued pursuant to Section 12071.~~

~~26 (3) A violation of this subdivision is a misdemeanor.~~

~~27 (c) (1) The Attorney General shall permanently keep  
28 and properly file and maintain all information reported  
29 to the Department of Justice pursuant to Sections 12071,  
30 12072, 12078, 12082, and 12084 or any other law, as to  
31 pistols, revolvers, or other firearms capable of being  
32 concealed upon the person and maintain a registry  
33 thereof.~~

~~34 (2) The registry shall consist of all of the following:~~

~~35 (A) The name, address, identification of, place of birth  
36 (state or country), complete telephone number,  
37 occupation, sex, description, and all legal names and  
38 aliases ever used by the owner or person being loaned the  
39 particular pistol, revolver, or other firearm capable of  
40 being concealed upon the person as listed on the~~

1 ~~information provided to the department on the Dealers'~~  
2 ~~Record of Sale, the Law Enforcement Firearms Transfer~~  
3 ~~(LEFT), as defined in Section 12084, or reports made to~~  
4 ~~the department pursuant to Section 12053, 12078, or any~~  
5 ~~other law.~~

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

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

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

26 ~~(E) Information provided pursuant to paragraphs~~  
27 ~~(19) and (20) of subdivision (b) of Section 12071.~~

28 ~~(F) Information provided pursuant to paragraph (8)~~  
29 ~~of subdivision (d) of Section 12084.~~

30 ~~(3) Information in the registry referred to in this~~  
31 ~~subdivision shall, upon proper application therefor, be~~  
32 ~~furnished to the officers referred to in Section 11105 or to~~  
33 ~~the person listed in the registry as the owner or person~~  
34 ~~who is listed as being loaned the particular pistol,~~  
35 ~~revolver, or other firearm capable of being concealed~~  
36 ~~upon the person in the form of hard copy printouts of that~~  
37 ~~information as photographic, photostatic, and~~  
38 ~~nonerasable optically stored reproductions.~~

39 ~~(4) If any person is listed in the registry as the owner~~  
40 ~~of a firearm through a Dealers' Record of Sale prior to~~

1 1979, and the person listed in the registry requests by  
2 letter that the Attorney General store and keep the  
3 record electronically, as well as in the record's existing  
4 photographic, photostatic, or nonerasable optically  
5 stored form, the Attorney General shall do so within three  
6 working days of receipt of the request. The Attorney  
7 General shall, in writing, and as soon as practicable, notify  
8 the person requesting electronic storage of the record  
9 that the request has been honored as required by this  
10 paragraph.

11 SEC. 3.

12 SEC. 2. Section 12001 of the Penal Code is amended  
13 to read:

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

~~SEC. 4.~~

SEC. 3. Section 12021 of the Penal Code is amended to read:

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

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

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

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct



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

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

32 (A) Finds by a preponderance of the evidence that the  
33 petitioner is likely to use a firearm in a safe and lawful  
34 manner.

35 (B) Finds that the petitioner is not within a prohibited  
36 class as specified in subdivision (a), (b), (d), (e), or (g)  
37 or Section 12021.1, and the court is not presented with any  
38 credible evidence that the petitioner is a person  
39 described in Section 8100 or 8103 of the Welfare and  
40 Institutions Code.

1 (C) Finds that the petitioner does not have a previous  
2 conviction under this subdivision no matter when the  
3 prior conviction occurred.

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

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

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



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

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

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

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

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

1 a copy of any minute order or abstract reflecting the  
2 order and conditions of probation.

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

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

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

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

36 (g) (1) Every person who purchases or receives, or  
37 attempts to purchase or receive, a firearm knowing that  
38 he or she is subject to a protective order as defined in  
39 Section 6218 of the Family Code, Section 136.2, or a  
40 temporary restraining order or injunction issued

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

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

35 (3) *The* Judicial Council shall provide notice on all  
 36 protective orders that the respondent is prohibited from  
 37 possessing, purchasing, or receiving a firearm while the  
 38 protective order is in effect and that the firearm shall be  
 39 relinquished to the local law enforcement agency for that  
 40 jurisdiction or sold to a licensed gun dealer, and that proof

1 of surrender or sale shall be filed within a specified time  
2 of receipt of the order. The order shall also state on its face  
3 the expiration date for relinquishment.

4 (4) If probation is granted upon conviction of a  
5 violation of this subdivision, the court shall impose  
6 probation consistent with the provisions of Section  
7 1203.097.

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

11 (A) The person found the firearm or took the firearm  
12 from a person who was committing a crime against him  
13 or her.

14 (B) The person possessed the firearm no longer than  
15 was necessary to deliver or transport the firearm to a law  
16 enforcement agency for that agency's disposition  
17 according to law.

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

21 (D) If the firearm is being transported to a law  
22 enforcement agency, the person transporting the firearm  
23 has given prior notice to the law enforcement agency that  
24 he or she is transporting the firearm to the law  
25 enforcement agency for disposition according to law.

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

30 (3) The defendant has the burden of proving by a  
31 preponderance of the evidence that he or she comes  
32 within the provisions of the exemption created by this  
33 subdivision.

34 ~~SEC. 5.~~

35 *SEC. 3.5. Section 12021 of the Penal Code is amended*  
36 *to read:*

37 12021. (a) (1) Any person who has been convicted  
38 of a felony under the laws of the United States, of the State  
39 of California, or any other state, government, or country,  
40 or of an offense enumerated in subdivision (a), (b), or (d)

1 of Section 12001.6, or who is addicted to the use of any  
2 narcotic drug, who owns or has in his or her possession or  
3 under his or her custody or control any firearm is guilty  
4 of a felony.

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

9 (b) Notwithstanding subdivision (a), any person who  
10 has been convicted of a felony or of an offense  
11 enumerated in Section 12001.6, when that conviction  
12 results from certification by the juvenile court for  
13 prosecution as an adult in an adult court under Section  
14 707 of the Welfare and Institutions Code, who owns or has  
15 in his or her possession or under his or her custody or  
16 control any firearm is guilty of a felony.

17 (c) (1) Except as provided in subdivision (a) or  
18 paragraph (2) of this subdivision, any person who has  
19 been convicted of a misdemeanor violation of Section 71,  
20 76, 136.1, 136.5, or 140, subdivision (d) of Section 148,  
21 Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5,  
22 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2,  
23 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or  
24 (d) of Section 12034, Section 12040, subdivision (b) of  
25 Section 12072, subdivision (a) of former Section 12100,  
26 Section 12220, 12320, or 12590, or Section 8100, 8101, or  
27 8103 of the Welfare and Institutions Code, any  
28 firearm-related offense pursuant to Sections 871.5 and  
29 1001.5 of the Welfare and Institutions Code, or of the  
30 conduct punished in paragraph (3) of subdivision (g) of  
31 Section 12072, and who, within 10 years of the conviction,  
32 owns, or has in his or her possession or under his or her  
33 custody or control, any firearm is guilty of a public  
34 offense, which shall be punishable by imprisonment in a  
35 county jail not exceeding one year or in the state prison,  
36 by a fine not exceeding one thousand dollars (\$1,000), or  
37 by both that imprisonment and fine. The court, on forms  
38 prescribed by the Department of Justice, shall notify the  
39 department of persons subject to this subdivision.  
40 However, the prohibition in this paragraph may be



1 reduced, eliminated, or conditioned as provided in  
2 paragraph (2) or (3).

3 (2) Any person employed as a peace officer described  
4 in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5  
5 whose employment or livelihood is dependent on the  
6 ability to legally possess a firearm, who is subject to the  
7 prohibition imposed by this subdivision because of a  
8 conviction under Section 273.5, 273.6, or 646.9, may  
9 petition the court only once for relief from this  
10 prohibition. The petition shall be filed with the court in  
11 which the petitioner was sentenced. If possible, the  
12 matter shall be heard before the same judge that  
13 sentenced the petitioner. Upon filing the petition, the  
14 clerk of the court shall set the hearing date and shall  
15 notify the petitioner and the prosecuting attorney of the  
16 date of the hearing. Upon making each of the following  
17 findings, the court may reduce or eliminate the  
18 prohibition, impose conditions on reduction or  
19 elimination of the prohibition, or otherwise grant relief  
20 from the prohibition as the court deems appropriate:

21 (A) Finds by a preponderance of the evidence that the  
22 petitioner is likely to use a firearm in a safe and lawful  
23 manner.

24 (B) Finds that the petitioner is not within a prohibited  
25 class as specified in subdivision (a), (b), (d), (e), or (g)  
26 or Section 12021.1, and the court is not presented with any  
27 credible evidence that the petitioner is a person  
28 described in Section 8100 or 8103 of the Welfare and  
29 Institutions Code.

30 (C) Finds that the petitioner does not have a previous  
31 conviction under this subdivision no matter when the  
32 prior conviction occurred.

33 In making its decision, the court shall consider the  
34 petitioner's continued employment, the interest of  
35 justice, any relevant evidence, and the totality of the  
36 circumstances. The court shall require, as a condition of  
37 granting relief from the prohibition under this section,  
38 that the petitioner agree to participate in counseling as  
39 deemed appropriate by the court. Relief from the  
40 prohibition shall not relieve any other person or entity



1 from any liability that might otherwise be imposed. It is  
2 the intent of the Legislature that courts exercise broad  
3 discretion in fashioning appropriate relief under this  
4 paragraph in cases in which relief is warranted. However,  
5 nothing in this paragraph shall be construed to require  
6 courts to grant relief to any particular petitioner. It is the  
7 intent of the Legislature to permit persons who were  
8 convicted of an offense specified in Section 273.5, 273.6,  
9 or 646.9 to seek relief from the prohibition imposed by this  
10 subdivision.

11 (3) Any person who is subject to the prohibition  
12 imposed by this subdivision because of a conviction of an  
13 offense prior to that offense being added to paragraph  
14 (1), may petition the court only once for relief from this  
15 prohibition. The petition shall be filed with the court in  
16 which the petitioner was sentenced. If possible, the  
17 matter shall be heard before the same judge that  
18 sentenced the petitioner. Upon filing the petition, the  
19 clerk of the court shall set the hearing date and notify the  
20 petitioner and the prosecuting attorney of the date of the  
21 hearing. Upon making each of the following findings, the  
22 court may reduce or eliminate the prohibition, impose  
23 conditions on reduction or elimination of the prohibition,  
24 or otherwise grant relief from the prohibition as the court  
25 deems appropriate:

26 (A) Finds by a preponderance of the evidence that the  
27 petitioner is likely to use a firearm in a safe and lawful  
28 manner.

29 (B) Finds that the petitioner is not within a prohibited  
30 class as specified in subdivision (a), (b), (d), (e), or (g)  
31 or Section 12021.1, and the court is not presented with any  
32 credible evidence that the petitioner is a person  
33 described in Section 8100 or 8103 of the Welfare and  
34 Institutions Code.

35 (C) Finds that the petitioner does not have a previous  
36 conviction under this subdivision, no matter when the  
37 prior conviction occurred.

38 In making its decision, the court may consider the  
39 interest of justice, any relevant evidence, and the totality  
40 of the circumstances. It is the intent of the Legislature

1 that courts exercise broad discretion in fashioning  
2 appropriate relief under this paragraph in cases in which  
3 relief is warranted. However, nothing in this paragraph  
4 shall be construed to require courts to grant relief to any  
5 particular petitioner.

6 (4) Law enforcement officials who enforce the  
7 prohibition specified in this subdivision against a person  
8 who has been granted relief pursuant to paragraph (2) or  
9 (3), shall be immune from any liability for false arrest  
10 arising from the enforcement of this subdivision unless  
11 the person has in his or her possession a certified copy of  
12 the court order that granted the person relief from the  
13 prohibition. This immunity from liability shall not relieve  
14 any person or entity from any other liability that might  
15 otherwise be imposed.

16 (d) Any person who, as an express condition of  
17 probation, is prohibited or restricted from owning,  
18 possessing, controlling, receiving, or purchasing a firearm  
19 and who owns, or has in his or her possession or under his  
20 or her custody or control, any firearm but who is not  
21 subject to subdivision (a) or (c) is guilty of a public  
22 offense, which shall be punishable by imprisonment in a  
23 county jail not exceeding one year or in the state prison,  
24 by a fine not exceeding one thousand dollars (\$1,000), or  
25 by both that imprisonment and fine. The court, on forms  
26 provided by the Department of Justice, shall notify the  
27 department of persons subject to this subdivision. The  
28 notice shall include a copy of the order of probation and  
29 a copy of any minute order or abstract reflecting the  
30 order and conditions of probation.

31 (e) Any person who (1) is alleged to have committed  
32 an offense listed in subdivision (b) of Section 707 of the  
33 Welfare and Institutions Code, an offense described in  
34 subdivision (b) of Section 1203.073, or any offense  
35 enumerated in paragraph (1) of subdivision (c), and (2)  
36 is subsequently adjudged a ward of the juvenile court  
37 within the meaning of Section 602 of the Welfare and  
38 Institutions Code because the person committed an  
39 offense listed in subdivision (b) of Section 707 of the  
40 Welfare and Institutions Code, an offense described in



1 subdivision (b) of Section 1203.073, or any offense  
 2 enumerated in paragraph (1) of subdivision (c) shall not  
 3 own, or have in his or her possession or under his or her  
 4 custody or control, any firearm until the age of 30 years.  
 5 A violation of this subdivision shall be punishable by  
 6 imprisonment in a county jail not exceeding one year or  
 7 in the state prison, by a fine not exceeding one thousand  
 8 dollars (\$1,000), or by both that imprisonment and fine.  
 9 The juvenile court, on forms prescribed by the  
 10 Department of Justice, shall notify the department of  
 11 persons subject to this subdivision. Notwithstanding any  
 12 other law, the forms required to be submitted to the  
 13 department pursuant to this subdivision may be used to  
 14 determine eligibility to acquire a firearm.

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

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

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

24 (g) (1) Every person who purchases or receives, or  
 25 attempts to purchase or receive, a firearm knowing that  
 26 he or she is subject to a protective order as defined in  
 27 Section 6218 of the Family Code, Section 136.2, or a  
 28 temporary restraining order or injunction issued  
 29 pursuant to Section 527.6 or 527.8 of the Code of Civil  
 30 Procedure, is guilty of a public offense, which shall be  
 31 punishable by imprisonment in a county jail not  
 32 exceeding one year or in the state prison, by a fine not  
 33 exceeding one thousand dollars (\$1,000), or by both that  
 34 imprisonment and fine. This subdivision does not apply  
 35 unless the copy of the restraining order personally served  
 36 on the person against whom the restraining order is  
 37 issued contains a notice in bold print stating (1) that the  
 38 person is prohibited from purchasing or receiving or  
 39 attempting to purchase or receive a firearm and (2)  
 40 specifying the penalties for violating this subdivision, or

1 a court has provided actual verbal notice of the firearm  
2 prohibition and penalty as provided in Section 6304 of the  
3 Family Code.

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

24 (3) *The* Judicial Council shall provide notice on all  
25 protective orders that the respondent is prohibited from  
26 ~~owning~~, possessing, purchasing, or receiving a firearm  
27 while the protective order is in effect and that the firearm  
28 shall be relinquished to the local law enforcement agency  
29 for that jurisdiction or sold to a licensed gun dealer, and  
30 that proof of surrender or sale shall be filed within a  
31 specified time of receipt of the order. The order shall also  
32 state on its face the expiration date for relinquishment.

33 (4) If probation is granted upon conviction of a  
34 violation of this subdivision, the court shall impose  
35 probation consistent with the provisions of Section  
36 1203.097.

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

1 (A) The person found the firearm or took the firearm  
2 from a person who was committing a crime against him  
3 or her.

4 (B) The person possessed the firearm no longer than  
5 was necessary to deliver or transport the firearm to a law  
6 enforcement agency for that agency's disposition  
7 according to law.

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

11 (D) If the firearm is being transported to a law  
12 enforcement agency, the person transporting the firearm  
13 has given prior notice to the law enforcement agency that  
14 he or she is transporting the firearm to the law  
15 enforcement agency for disposition according to law.

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

20 (3) The defendant has the burden of proving by a  
21 preponderance of the evidence that he or she comes  
22 within the provisions of the exemption created by this  
23 subdivision.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

33 (17) The transportation of a firearm by a person who  
34 finds the firearm in order to comply with Article 1  
35 (commencing with Section 2080) of Chapter 4 of Division  
36 3 of the Civil Code as it pertains to that firearm and if that  
37 firearm is being transported to a law enforcement  
38 agency, the person gives prior notice to the law  
39 enforcement agency that he or she is transporting the  
40 firearm to the law enforcement agency.



1 (18) The transportation of a firearm by a person who  
2 finds the firearm or took it from a person committing a  
3 crime against him or her and is transporting it to a law  
4 enforcement agency for disposition according to law, if he  
5 or she gives prior notice to the law enforcement agency  
6 that he or she is transporting the firearm to the law  
7 enforcement agency for disposition according to law.

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

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

14 (21) The transportation of a firearm by a person for the  
15 purpose of obtaining an identification number or mark  
16 assigned for that firearm from the Department of Justice  
17 pursuant to Section 12092.

18 (22) The transportation of a firearm by a person for the  
19 purpose of complying with the requirements of Section  
20 6389 of the Family Code, provided that if the firearm is  
21 being transported to a law enforcement agency for  
22 disposition pursuant to Section 6389 of the Family Code,  
23 he or she gives prior notice to the law enforcement  
24 agency that he or she is transporting the firearm to the  
25 law enforcement agency for disposition according to  
26 Section 6389 of the Family Code.

27 (23) The transportation of a firearm by a person to  
28 whom the firearm is being returned pursuant to law to a  
29 place where it may legally be kept pursuant to Section  
30 12026.

31 (b) In order for a firearm to be exempted under  
32 subdivision (a), while being transported to or from a  
33 place, the firearm shall be unloaded, kept in a locked  
34 container, as defined in subdivision (d), and the course of  
35 travel shall include only those deviations between  
36 authorized locations as are reasonably necessary under  
37 the circumstances.

38 (c) This section does not prohibit or limit the  
39 otherwise lawful carrying or transportation of any pistol,





1 revolver, or other firearm capable of being concealed  
2 upon the person in accordance with this chapter.

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

8 ~~SEC. 6.~~

9 SEC. 5. Section 12030 of the Penal Code is amended  
10 to read:

11 12030. (a) The officer having custody of any firearms  
12 that may be useful to the California National Guard, the  
13 Coast Guard Auxiliary, or to any military or naval agency  
14 of the federal or state government, including, but not  
15 limited to, the California National Guard military  
16 museum and resource center, may, upon the authority of  
17 the legislative body of the city, city and county, or county  
18 by which he or she is employed and the approval of the  
19 Adjutant General, deliver the firearms to the  
20 commanding officer of a unit of the California National  
21 Guard, the Coast Guard Auxiliary, or any other military  
22 agency of the state or federal government in lieu of  
23 destruction as required by this chapter. The officer  
24 delivering the firearms shall take a receipt for them  
25 containing a complete description thereof and shall keep  
26 the receipt on file in his or her office as a public record.

27 (b) Any law enforcement agency that has custody of  
28 any firearms, or any parts of any firearms, that are subject  
29 to destruction as required by this chapter may, in lieu of  
30 destroying the weapons, retain and use any of them as  
31 may be useful in carrying out the official duties of the  
32 agency, or upon approval of a court, may release them to  
33 any other law enforcement agency for use in carrying out  
34 the official duties of that agency, or may turn over to the  
35 criminalistics laboratory of the Department of Justice or  
36 the criminalistics laboratory of a police department,  
37 sheriff’s office, or district attorney’s office any weapons  
38 which may be useful in carrying out the official duties of  
39 their respective agencies.

1 (c) Any firearm, or part of any firearm, that, rather  
2 than being destroyed, is used for official purposes  
3 pursuant to this section shall be destroyed by the agency  
4 using the weapon when it is no longer needed by the  
5 agency for use in carrying out its official duties. In the case  
6 of firearms or weaponry donated to the California  
7 National Guard military museum and resource center,  
8 they may be disposed of pursuant to Section 179 of the  
9 Military and Veterans Code.

10 (d) Any law enforcement agency which has custody of  
11 any firearms, or any parts of any firearms, that are subject  
12 to destruction as required by this chapter may, in lieu of  
13 destroying the firearms, obtain an order from the  
14 superior court directing the release of the firearms to the  
15 sheriff. The sheriff shall enter such weapons into the  
16 Automated Firearms System (AFS) with a complete  
17 description of each weapon, including the make, type,  
18 category, caliber, and serial number of the firearms, and  
19 the name of the academy receiving the weapon entered  
20 into the AFS miscellaneous field. The sheriff shall then  
21 release the firearms to the basic training academy  
22 certified by the Commission on Peace Officer Standards  
23 and Training, so that the firearms may be used for  
24 instructional purposes in the certified courses. As used in  
25 this section, the term “firearms” shall not include  
26 destructive devices, as defined in Section 12301. All  
27 firearms released to an academy shall be under the care,  
28 custody, and control of the particular academy.

29 Any firearms, or part of any firearms, that is not  
30 destroyed, and is used for the purposes authorized by this  
31 section, shall be returned to the law enforcement agency  
32 which had original custody of the firearms when it is no  
33 longer needed by the basic training academy, or when  
34 the basic training academy is no longer certified by the  
35 commission.

36 (e) Any law enforcement agency that retains custody  
37 of any firearm pursuant to this section or that destroys a  
38 firearm pursuant to Section 12028 shall notify the  
39 Department of Justice of the retention or destruction.  
40 This notification shall consist of a complete description of

1 each firearm, including the name of the manufacturer or  
2 brand name, model, caliber, and serial number.

3 (f) Any law enforcement agency that returns a pistol,  
4 revolver, or other firearm capable of being concealed  
5 upon the person to its lawful owner pursuant to Section  
6 12028 or 12028.5, shall enter the name of the agency  
7 returning the firearm, the name of the person to whom  
8 it is returned, and the make, model, serial number, and  
9 other identifying characteristics of the firearm being  
10 returned into the Automated Firearms System (AFS) via  
11 the California Law Enforcement Telecommunications  
12 System (CLETS). Those agencies without access to AFS  
13 shall arrange with the sheriff of the county in which the  
14 agency is located to input this information into the AFS.

15 ~~SEC. 7. Section 12070 of the Penal Code is amended~~  
16 ~~to read:~~

17 ~~12070. (a) No person shall sell, lease, or transfer~~  
18 ~~firearms unless he or she has been issued a license~~  
19 ~~pursuant to Section 12071. Any person violating this~~  
20 ~~section is guilty of a misdemeanor.~~

21 ~~(b) Subdivision (a) does not include any of the~~  
22 ~~following:~~

23 ~~(1) The sale, lease, or transfer of any firearm by a~~  
24 ~~person acting pursuant to operation of law, a court order,~~  
25 ~~or pursuant to the Enforcement of Judgments Law (Title~~  
26 ~~9 (commencing with Section 680.010) of Part 2 of the~~  
27 ~~Code of Civil Procedure), or by a person who liquidates~~  
28 ~~a personal firearm collection to satisfy a court judgment.~~

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

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

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

36 ~~(5) The sale, lease, or transfer of used firearms other~~  
37 ~~than pistols, revolvers, or other firearms capable of being~~  
38 ~~concealed upon the person, at gun shows or events, as~~  
39 ~~specified in subparagraph (B) of paragraph (1) of~~  
40 ~~subdivision (b) of Section 12071, by a person other than~~

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

~~17 A person described in this paragraph shall be known as  
18 a “Gun Show Trader.”~~

~~19 The Department of Justice shall adopt regulations to  
20 administer this program and shall recover the full costs of  
21 administration from fees assessed applicants.~~

~~22 As used in this paragraph, the term “used firearm”  
23 means a firearm that has been sold previously at retail and  
24 is more than three years old.~~

~~25 (6) The activities of a law enforcement agency  
26 pursuant to Section 12084.~~

~~27 (7) Deliveries, sales, or transfers of firearms between  
28 or to importers and manufacturers of firearms licensed to  
29 engage in business pursuant to Chapter 44 (commencing  
30 with Section 921) of Title 18 of the United States Code and  
31 the regulations issued pursuant thereto.~~

~~32 (8) The sale, delivery, or transfer of firearms by  
33 manufacturers or importers licensed pursuant to Chapter  
34 44 (commencing with Section 921) of Title 18 of the  
35 United States Code and the regulations issued pursuant  
36 thereto to dealers or wholesalers.~~

~~37 (9) Deliveries and transfers of firearms made pursuant  
38 to Section 12028, 12028.5, 12030, or 12032.~~

~~39 (10) The loan of a firearm for the purposes of shooting  
40 at targets, if the loan occurs on the premises of a target~~

1 facility which holds a business or regulatory license or on  
2 the premises of any club or organization organized for the  
3 purposes of practicing shooting at targets upon  
4 established ranges, whether public or private, if the  
5 firearm is at all times kept within the premises of the  
6 target range or on the premises of the club or  
7 organization.

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

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

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

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

37 (15) Sales, deliveries, or transfers of firearms by  
38 persons who reside outside this state and are licensed  
39 pursuant to Chapter 44 (commencing with Section 921)  
40 of Title 18 of the United States Code and the regulations

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

5 (16) The delivery, sale, or transfer of an unloaded  
6 firearm by one wholesaler to another wholesaler if that  
7 firearm is intended as merchandise in the receiving  
8 wholesaler's business.

9 (17) The loan of an unloaded firearm or the loan of a  
10 firearm loaded with blank cartridges for use solely as a  
11 prop for a motion picture, television, or video production  
12 or entertainment or theatrical event.

13 (18) The delivery of an unloaded firearm that is a curio  
14 or relie, as defined in Section 178.11 of Title 27 of the Code  
15 of Federal Regulations, by a person licensed as a collector  
16 pursuant to Chapter 44 (commencing with Section 921)  
17 of Title 18 of the United States Code and the regulations  
18 issued pursuant thereto with a current certificate of  
19 eligibility issued pursuant to Section 12071 to a dealer.

20 (19) The loan of a firearm made by a licensed private  
21 investigator licensed pursuant to Chapter 11.3  
22 (commencing with Section 7512) of Division 3 of the  
23 Business and Professions Code to an employee thereof  
24 who has a permit or license to carry a firearm issued to  
25 him or her by the Department of Consumer Affairs to  
26 carry a firearm in the course and scope of his or her  
27 employment.

28 (20) The loan of a firearm made by a private patrol  
29 operator licensed pursuant to Chapter 11.5 (commencing  
30 with Section 7580) of Division 3 of the Business and  
31 Professions Code to an employee thereof who has a  
32 permit or license to carry a firearm issued to him or her  
33 by the Department of Consumer Affairs to carry a  
34 firearm in the course and scope of his or her employment.

35 (21) The loan of a firearm made by an alarm company  
36 operator licensed pursuant to Chapter 11.6 (commencing  
37 with Section 7590) of Division 3 of the Business and  
38 Professions Code to an employee thereof who has a  
39 permit or license to carry a firearm issued to him or her

1 ~~by the Department of Consumer Affairs to carry a~~  
2 ~~firearm in the course and scope of his or her employment.~~

3 ~~(22) Sales, deliveries, or transfers of firearms by a law~~  
4 ~~enforcement agency to a wholesaler.~~

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

10 ~~(24) The delivery of a firearm to a law enforcement~~  
11 ~~agency by a person who takes possession of a firearm after~~  
12 ~~finding that firearm or who took the firearm from a~~  
13 ~~person who was committing a crime against him or her.~~

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

15 ~~(A) For pistols, revolvers, and other firearms capable~~  
16 ~~of being concealed upon the person, less than six~~  
17 ~~transactions per calendar year. For this purpose,~~  
18 ~~“transaction” means a single sale, lease, or transfer of any~~  
19 ~~number of pistols, revolvers, or other firearms capable of~~  
20 ~~being concealed upon the person.~~

21 ~~(B) For firearms other than pistols, revolvers, or other~~  
22 ~~firearms capable of being concealed upon the person,~~  
23 ~~occasional and without regularity.~~

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

26 ~~(A) The executor or administrator of an estate, if the~~  
27 ~~estate includes firearms.~~

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

32 ~~(C) A levying officer, as defined in Section 481.140,~~  
33 ~~511.060, or 680.260 of the Code of Civil Procedure.~~

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

36 ~~(E) A trustee in bankruptcy performing his or her~~  
37 ~~duties, if the bankruptcy estate includes firearms.~~

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



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

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

~~(I) 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.~~

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

~~SEC. 8. Section 12071 of the Penal Code is amended to read:~~

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

~~(A) A valid federal firearms license.~~

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

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

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

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

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

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

~~(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms~~



1 ~~license, valid seller's permit issued by the State Board of~~  
2 ~~Equalization, and the certificate of eligibility described in~~  
3 ~~paragraph (4).~~

4 ~~(4) A person may request a certificate of eligibility~~  
5 ~~from the Department of Justice and the Department of~~  
6 ~~Justice shall issue a certificate to an applicant if the~~  
7 ~~department's records indicate that the applicant is not a~~  
8 ~~person who is prohibited from possessing firearms.~~

9 ~~(5) The department shall adopt regulations to~~  
10 ~~administer the certificate of eligibility program and shall~~  
11 ~~recover the full costs of administering the program by~~  
12 ~~imposing fees assessed to applicants who apply for those~~  
13 ~~certificates.~~

14 ~~(6) A license granted by the duly constituted licensing~~  
15 ~~authority of any city, county, or city and county, shall be~~  
16 ~~valid for not more than one year from the date of issuance~~  
17 ~~and shall be in one of the following forms:~~

18 ~~(A) In the form prescribed by the Attorney General.~~

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

22 ~~(C) A letter from the duly constituted licensing~~  
23 ~~authority having primary jurisdiction for the applicant's~~  
24 ~~intended business location stating that the jurisdiction~~  
25 ~~does not require any form of regulatory or business~~  
26 ~~license or does not otherwise restrict or regulate the sale~~  
27 ~~of firearms.~~

28 ~~(7) Local licensing authorities may assess fees to~~  
29 ~~recover their full costs of processing applications for~~  
30 ~~licenses.~~

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

33 ~~(1) (A) Except as provided in subparagraphs (B) and~~  
34 ~~(C), the business shall be conducted only in the buildings~~  
35 ~~designated in the license.~~

36 ~~(B) A person licensed pursuant to subdivision (a) may~~  
37 ~~take possession of firearms and commence preparation of~~  
38 ~~registers for the sale, delivery, or transfer of firearms at~~  
39 ~~gun shows or events, as defined in Section 178.100 of Title~~  
40 ~~27 of the Code of Federal Regulations, or its successor, if~~

1 ~~the gun show or event is not conducted from any~~  
2 ~~motorized or towed vehicle. A person conducting~~  
3 ~~business pursuant to this subparagraph shall be entitled~~  
4 ~~to conduct business as authorized herein at any gun show~~  
5 ~~or event in the state without regard to the jurisdiction~~  
6 ~~within this state that issued the license pursuant to~~  
7 ~~subdivision (a), provided the person complies with (i) all~~  
8 ~~applicable laws, including, but not limited to, the waiting~~  
9 ~~period specified in subparagraph (A) of paragraph (3);~~  
10 ~~and (ii) all applicable local laws, regulations, and fees, if~~  
11 ~~any.~~

12 ~~A person conducting business pursuant to this~~  
13 ~~subparagraph shall publicly display his or her license~~  
14 ~~issued pursuant to subdivision (a), or a facsimile thereof,~~  
15 ~~at any gun show or event, as specified in this~~  
16 ~~subparagraph.~~

17 ~~(C) A person licensed pursuant to subdivision (a) may~~  
18 ~~engage in the sale and transfer of firearms other than~~  
19 ~~pistols, revolvers, or other firearms capable of being~~  
20 ~~concealed upon the person, at events specified in~~  
21 ~~subdivision (g) of Section 12078, subject to the~~  
22 ~~prohibitions and restrictions contained in that~~  
23 ~~subdivision.~~

24 ~~A person licensed pursuant to subdivision (a) also may~~  
25 ~~accept delivery of firearms other than pistols, revolvers,~~  
26 ~~or other firearms capable of being concealed upon the~~  
27 ~~person, outside the building designated in the license,~~  
28 ~~provided the firearm is being donated for the purpose of~~  
29 ~~sale or transfer at an auction or similar event specified in~~  
30 ~~subdivision (g) of Section 12078.~~

31 ~~(D) The firearm may be delivered to the purchaser,~~  
32 ~~transferee, or person being loaned the firearm at one of~~  
33 ~~the following places:~~

34 ~~(i) The building designated in the license.~~

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

36 ~~(iii) The place of residence of, the fixed place of~~  
37 ~~business of, or on private property owned or lawfully~~  
38 ~~possessed by, the purchaser, transferee, or person being~~  
39 ~~loaned the firearm.~~

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

~~(3) No firearm shall be delivered:~~

~~(A) Within 10 days of the application to purchase, or after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (c) of Section 12076, whichever is later.~~

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

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

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

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

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

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

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

~~(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 16 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR"~~

~~1 OR A FELONY, UNLESS YOU STORED THE  
2 FIREARM IN A LOCKED CONTAINER OR LOCKED  
3 THE FIREARM WITH A LOCKING DEVICE TO KEEP  
4 IT FROM TEMPORARILY FUNCTIONING.”~~

~~5 (B) “IF YOU KEEP A PISTOL, REVOLVER, OR  
6 OTHER FIREARM CAPABLE OF BEING  
7 CONCEALED UPON THE PERSON, WITHIN ANY  
8 PREMISES UNDER YOUR CUSTODY OR CONTROL,  
9 AND A PERSON UNDER 16 YEARS OF AGE GAINS  
10 ACCESS TO THE FIREARM, AND CARRIES IT  
11 OFF PREMISES, YOU MAY BE GUILTY OF A  
12 MISDEMEANOR, UNLESS YOU STORED THE  
13 FIREARM IN A LOCKED CONTAINER, OR LOCKED  
14 THE FIREARM WITH A LOCKING DEVICE, TO  
15 KEEP IT FROM TEMPORARILY FUNCTIONING.”~~

~~16 (C) “DISCHARGING FIREARMS IN POORLY  
17 VENTILATED AREAS, CLEANING FIREARMS, OR  
18 HANDLING AMMUNITION MAY RESULT IN  
19 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO  
20 CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM,  
21 AND OTHER SERIOUS PHYSICAL INJURY. HAVE  
22 ADEQUATE VENTILATION AT ALL TIMES. WASH  
23 HANDS THOROUGHLY AFTER EXPOSURE.”~~

~~24 (D) “FEDERAL REGULATIONS PROVIDE THAT  
25 IF YOU DO NOT TAKE PHYSICAL POSSESSION OF  
26 THE FIREARM THAT YOU ARE ACQUIRING  
27 OWNERSHIP OF WITHIN 30 DAYS AFTER YOU  
28 COMPLETE THE INITIAL BACKGROUND CHECK  
29 PAPERWORK, THEN YOU HAVE TO GO THROUGH  
30 THE BACKGROUND CHECK PROCESS A SECOND  
31 TIME IN ORDER TO TAKE PHYSICAL POSSESSION  
32 OF THAT FIREARM.”~~

~~33 (E) “NO PERSON SHALL MAKE AN  
34 APPLICATION TO PURCHASE MORE THAN ONE  
35 PISTOL, REVOLVER, OR OTHER FIREARM  
36 CAPABLE OF BEING CONCEALED UPON THE  
37 PERSON WITHIN ANY 30-DAY PERIOD AND NO  
38 DELIVERY SHALL BE MADE TO ANY PERSON WHO  
39 HAS MADE AN APPLICATION TO PURCHASE MORE  
40 THAN ONE PISTOL, REVOLVER, OR OTHER~~

~~FIREARM CAPABLE OF BEING CONCEALED UPON  
THE PERSON WITHIN ANY 30-DAY PERIOD.”~~

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

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

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

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

~~(A) All charges required by governmental agencies  
for processing firearm transfers required by Sections  
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~~

~~1 place of business using one of the following methods as to  
2 each particular firearm:~~

~~3 (A) Store the firearm in a secure facility that is a part  
4 of, or that constitutes, the licensee's business premises.~~

~~5 (B) Secure the firearm with a hardened steel rod or  
6 cable of at least one-eighth inch in diameter through the  
7 trigger guard of the firearm. The steel rod or cable shall  
8 be secured with a hardened steel lock that has a shackle.  
9 The lock and shackle shall be protected or shielded from  
10 the use of a bolt cutter and the rod or cable shall be  
11 anchored in a manner that prevents the removal of the  
12 firearm from the premises.~~

~~13 (C) Store the firearm in a locked fireproof safe or vault  
14 in the licensee's business premises.~~

~~15 (15) The licensing authority in an unincorporated area  
16 of a county with a population less than 200,000 persons  
17 according to the most recent federal decennial census or  
18 within a city with a population of less than 50,000 persons  
19 according to the most recent federal decennial census  
20 may impose the requirements specified in paragraph  
21 (14).~~

~~22 (16) Commencing January 1, 1994, the licensee shall,  
23 upon the issuance or renewal of a license, submit a copy  
24 of the same to the Department of Justice.~~

~~25 (17) The licensee shall maintain and make available  
26 for inspection during business hours to any peace officer,  
27 authorized local law enforcement employee, or  
28 Department of Justice employee designated by the  
29 Attorney General, upon the presentation of proper  
30 identification, a firearms transaction record.~~

~~31 (18) (A) On the date of receipt, the licensee shall  
32 report to the Department of Justice in a format  
33 prescribed by the department the acquisition by the  
34 licensee of the ownership of a pistol, revolver, or other  
35 firearm capable of being concealed upon the person.~~

~~36 (B) The provisions of this paragraph shall not apply to  
37 any of the following transactions:~~

~~38 (i) A transaction subject to the provisions of  
39 subdivision (n) of Section 12078.~~

1     ~~(ii) The dealer acquired the firearm from a~~  
2     ~~wholesaler.~~

3     ~~(iii) The dealer is also licensed as a secondhand dealer~~  
4     ~~pursuant to Article 4 (commencing with Section 21625)~~  
5     ~~of Chapter 9 of Division 8 of the Business and Professions~~  
6     ~~Code.~~

7     ~~(iv) The dealer acquired the firearm from a person~~  
8     ~~who is licensed as a manufacturer or importer to engage~~  
9     ~~in those activities pursuant to Chapter 44 (commencing~~  
10    ~~with Section 921) of Title 18 of the United States Code and~~  
11    ~~any regulations issued pursuant thereto.~~

12    ~~(v) The dealer acquired the firearm from a person~~  
13    ~~who resides outside this state who is licensed pursuant to~~  
14    ~~Chapter 44 (commencing with Section 921) of Title 18 of~~  
15    ~~the United States Code and any regulations issued~~  
16    ~~pursuant thereto.~~

17    ~~(19) The licensee shall forward in a format prescribed~~  
18    ~~by the Department of Justice, information as required by~~  
19    ~~the department on any firearm that is not delivered~~  
20    ~~within the time period set forth in Section 178.102 (c) of~~  
21    ~~Title 27 of the Code of Federal Regulations.~~

22    ~~(20) (A) Until July 1, 2003, if required by the~~  
23    ~~Department of Justice, the licensee shall report in a~~  
24    ~~manner and format prescribed by the department the~~  
25    ~~date and time that the licensee delivered a pistol,~~  
26    ~~revolver, or other firearm capable of being concealed~~  
27    ~~upon the person to the purchaser or transferee of that~~  
28    ~~firearm or the person being loaned the firearm.~~

29    ~~(B) Commencing July 1, 2003, the licensee shall report~~  
30    ~~in a manner and format prescribed by the Department of~~  
31    ~~Justice to the department the date and time that the~~  
32    ~~licensee delivered a pistol, revolver, or other firearm~~  
33    ~~capable of being concealed upon the person to the~~  
34    ~~purchaser or transferee of that firearm or the person~~  
35    ~~being loaned the firearm.~~

36    ~~(e) (1) As used in this article, "clear evidence of his or~~  
37    ~~her identity and age" means either of the following:~~

38    ~~(A) A valid California driver's license.~~

39    ~~(B) A valid California identification card issued by the~~  
40    ~~Department of Motor Vehicles.~~



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

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

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

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

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

~~(iii) A metal grate that is padlocked and affixed to the licensee’s premises independent of the door and doorframe.~~

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

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

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

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

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

~~(4) As used in this section, “licensed premises,” “licensed place of business,” “licensee’s place of business,” or “licensee’s business premises” means the building designated in the license.~~

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

~~(A) A “firearms transaction record” is a record containing the same information referred to in subdivision (a) of Section 178.124, Section 178.124a, and subdivision (c) of Section 178.125 of Title 27 of the Code of Federal Regulations.~~

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

~~(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.~~

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

~~(1) For law enforcement purposes.~~

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

~~(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 178.100~~

1 of Title 27 of the Code of Federal Regulations, or its  
2 successor, who possesses a valid certificate of eligibility  
3 issued pursuant to Section 12071.1, if that information is  
4 requested by the person to determine the eligibility of a  
5 prospective participant in a gun show or event to conduct  
6 transactions as a firearms dealer pursuant to  
7 subparagraph (B) of paragraph (1) of subdivision (b).  
8 Information provided pursuant to this paragraph shall be  
9 limited to information necessary to corroborate an  
10 individual's current license status.

11 (f) The Department of Justice may inspect dealers to  
12 ensure compliance with this article. The department may  
13 assess an annual fee, not to exceed eighty five dollars  
14 (\$85), to cover the reasonable cost of maintaining the list  
15 described in subdivision (e), including the cost of  
16 inspections. Dealers whose place of business is in a  
17 jurisdiction that has adopted an inspection program to  
18 ensure compliance with firearms law shall be exempt  
19 from that portion of the department's fee that relates to  
20 the cost of inspections. The applicant is responsible for  
21 providing evidence to the department that the  
22 jurisdiction in which the business is located has the  
23 inspection program.

24 (g) The Department of Justice shall maintain and  
25 make available upon request information concerning the  
26 number of inspections conducted and the amount of fees  
27 collected pursuant to subdivision (f), a listing of  
28 exempted jurisdictions, as defined in subdivision (f), the  
29 number of dealers removed from the centralized list  
30 defined in subdivision (e), and the number of dealers  
31 found to have violated this article with knowledge or  
32 gross negligence.

33 (h) Paragraph (14) or (15) of subdivision (b) shall not  
34 apply to a licensee organized as a nonprofit public benefit  
35 or mutual benefit corporation organized pursuant to Part  
36 2 (commencing with Section 5110) or Part 3  
37 (commencing with Section 7110) of Division 2 of the  
38 Corporations Code, if both of the following conditions are  
39 satisfied:

1 ~~(1) The nonprofit public benefit or mutual benefit~~  
2 ~~corporation obtained the dealer's license solely and~~  
3 ~~exclusively to assist that corporation or local chapters of~~  
4 ~~that corporation in conducting auctions or similar events~~  
5 ~~at which firearms are auctioned off to fund the activities~~  
6 ~~of that corporation or the local chapters of the~~  
7 ~~corporation.~~

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

10 ~~SEC. 9. Section 12072 of the Penal Code is amended~~  
11 ~~to read:~~

12 ~~12072. (a) (1) No person, corporation, or firm shall~~  
13 ~~knowingly supply, deliver, sell, or give possession or~~  
14 ~~control of a firearm to any person within any of the classes~~  
15 ~~prohibited by Section 12021 or 12021.1.~~

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

22 ~~(3) (A) No person, corporation, or firm shall sell, loan,~~  
23 ~~or transfer a firearm to a minor.~~

24 ~~(B) Subparagraph (A) shall not apply to or affect those~~  
25 ~~circumstances set forth in subdivision (p) of Section~~  
26 ~~12078.~~

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

33 ~~(A) Knowledge that the firearm is to be subsequently~~  
34 ~~loaned, sold, or transferred to avoid the provisions of~~  
35 ~~subdivision (c) or (d).~~

36 ~~(B) Knowledge that the firearm is to be subsequently~~  
37 ~~loaned, sold, or transferred to avoid the requirements of~~  
38 ~~any exemption to the provisions of subdivision (c) or (d).~~

39 ~~(5) No person, corporation, or dealer shall acquire a~~  
40 ~~firearm for the purpose of selling, transferring, or loaning~~

1 ~~the firearm, if the person, corporation, or dealer has~~  
2 ~~either of the following:~~  
3 ~~(A) In the case of a dealer, intent to violate subdivision~~  
4 ~~(b) or (c).~~  
5 ~~(B) In any other case, intent to avoid either of the~~  
6 ~~following:~~  
7 ~~(i) The provisions of subdivision (d).~~  
8 ~~(ii) The requirements of any exemption to the~~  
9 ~~provisions of subdivision (d).~~  
10 ~~(6) The dealer shall comply with the provisions of~~  
11 ~~paragraph (18) of subdivision (b) of Section 12071.~~  
12 ~~(7) The dealer shall comply with the provisions of~~  
13 ~~paragraph (19) of subdivision (b) of Section 12071.~~  
14 ~~(8) No person shall sell or otherwise transfer his or her~~  
15 ~~ownership in a pistol, revolver, or other firearm capable~~  
16 ~~of being concealed upon the person unless the firearm~~  
17 ~~bears either:~~  
18 ~~(A) The name of the manufacturer, the~~  
19 ~~manufacturer's make or model, and a manufacturer's~~  
20 ~~serial number assigned to that firearm.~~  
21 ~~(B) The identification number or mark assigned to the~~  
22 ~~firearm by the Department of Justice pursuant to Section~~  
23 ~~12092.~~  
24 ~~(9) (A) No person shall make an application to~~  
25 ~~purchase more than one pistol, revolver, or other firearm~~  
26 ~~capable of being concealed upon the person within any~~  
27 ~~30-day period.~~  
28 ~~(B) Subparagraph (A) shall not apply to any of the~~  
29 ~~following:~~  
30 ~~(i) Any law enforcement agency.~~  
31 ~~(ii) Any agency duly authorized to perform law~~  
32 ~~enforcement duties.~~  
33 ~~(iii) Any state or local correctional facility.~~  
34 ~~(iv) Any private security company licensed to do~~  
35 ~~business in California.~~  
36 ~~(v) Any person who is properly identified as a full-time~~  
37 ~~paid peace officer, as defined in Chapter 4.5~~  
38 ~~(commencing with Section 830) of Title 3 of Part 2, and~~  
39 ~~who is authorized to, and does carry a firearm during the~~

1 ~~course and scope of his or her employment as a peace~~  
2 ~~officer.~~

3 ~~(vi) Any motion picture, television, or video~~  
4 ~~production company or entertainment or theatrical~~  
5 ~~company whose production by its nature involves the use~~  
6 ~~of a firearm.~~

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

10 ~~(viii) Any transaction conducted through a licensed~~  
11 ~~dealer pursuant to Section 12082.~~

12 ~~(ix) Any transaction conducted through a law~~  
13 ~~enforcement agency pursuant to Section 12084.~~

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

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

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

34 ~~(xiii) The return of any pistol, revolver, or other~~  
35 ~~firearm capable of being concealed upon the person to its~~  
36 ~~owner.~~

37 ~~(10) The dealer shall comply with paragraph (20) of~~  
38 ~~subdivision (b) of Section 12071.~~

39 ~~(b) No person licensed under Section 12071 shall~~  
40 ~~supply, sell, deliver, or give possession or control of a~~

~~1 pistol, revolver, or firearm capable of being concealed  
2 upon the person to any person under the age of 21 years  
3 or any other firearm to a person under the age of 18 years.~~

~~4 (e) No dealer, whether or not acting pursuant to  
5 Section 12082, shall deliver a firearm to a person, as  
6 follows:~~

~~7 (1) Within 10 days of the application to purchase, or,  
8 after notice by the department pursuant to subdivision  
9 (d) of Section 12076, within 10 days of the submission to  
10 the department of any correction to the application, or  
11 within 10 days of the submission to the department of any  
12 fee required pursuant to subdivision (c) of Section 12076,  
13 whichever is later.~~

~~14 (2) Unless unloaded and securely wrapped or  
15 unloaded and in a locked container.~~

~~16 (3) Unless the purchaser, transferee, or person being  
17 loaned the firearm presents clear evidence of his or her  
18 identity and age, as defined in Section 12071, to the  
19 dealer.~~

~~20 (4) Whenever the dealer is notified by the  
21 Department of Justice that the person is in a prohibited  
22 class described in Section 12021 or 12021.1 of this code or  
23 Section 8100 or 8103 of the Welfare and Institutions Code.~~

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

~~29 (6) No pistol, revolver, or other firearm capable of  
30 being concealed upon the person shall be delivered  
31 whenever the dealer is notified by the Department of  
32 Justice that within the preceding 30-day period the  
33 purchaser has made another application to purchase a  
34 pistol, revolver, or other firearm capable of being  
35 concealed upon the person and that the previous  
36 application to purchase involved none of the entities  
37 specified in subparagraph (B) of paragraph (9) of  
38 subdivision (a).~~

~~39 (d) Where neither party to the transaction holds a  
40 dealer's license issued pursuant to Section 12071, the~~



1 ~~parties to the transaction shall complete the sale, loan, or~~  
2 ~~transfer of that firearm through either of the following:~~

3 ~~(1) A licensed dealer pursuant to Section 12082.~~

4 ~~(2) A law enforcement agency pursuant to Section~~  
5 ~~12084.~~

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

10 ~~(1) Answering a test applicant's questions during an~~  
11 ~~objective test relating to basic firearms safety.~~

12 ~~(2) Knowingly grading the examination falsely.~~

13 ~~(3) Providing an advance copy of the test to an~~  
14 ~~applicant.~~

15 ~~(4) Taking or allowing another person to take the basic~~  
16 ~~firearms safety course for one who is the applicant for the~~  
17 ~~basic firearms safety certificate.~~

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

20 ~~(6) Allowing others to give unauthorized assistance~~  
21 ~~during the examination.~~

22 ~~(7) Reference to materials during the examination~~  
23 ~~and cheating by the applicant.~~

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

27 ~~(f) (1) No person who is licensed pursuant to Chapter~~  
28 ~~44 (commencing with Section 921) of Title 18 of the~~  
29 ~~United States Code shall deliver, sell, or transfer a firearm~~  
30 ~~to a person who is licensed pursuant to Chapter 44~~  
31 ~~(commencing with Section 921) of Title 18 of the United~~  
32 ~~States Code and whose licensed premises are located in~~  
33 ~~this state unless one of the following conditions is met:~~

34 ~~(A) The person presents proof of licensure pursuant to~~  
35 ~~Section 12071 to that person.~~

36 ~~(B) The person presents proof that he or she is exempt~~  
37 ~~from licensure under Section 12071 to that person, in~~  
38 ~~which case the person also shall present proof that the~~  
39 ~~transaction is also exempt from the provisions of~~  
40 ~~subdivision (d).~~

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

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

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

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

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

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

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

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

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

~~(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report~~

~~described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.~~

~~(H) Make the reports referred to in clause (i) of subparagraph (A) available to dealers licensed pursuant to Section 12071.~~

~~(I) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.~~

~~(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.~~

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

~~(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the applicable provisions of Chapter 44~~

~~(commencing with Section 921) of Title 18 of the United States Code, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.~~

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

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

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

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

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

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

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

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

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

1 ~~(F) A violation of subdivision (b) involving the~~  
2 ~~delivery of any firearm to a person who the dealer knows,~~  
3 ~~or should know, is a minor.~~

4 ~~(3) If any of the following circumstances apply, a~~  
5 ~~violation of this section shall be punished by~~  
6 ~~imprisonment in a county jail not exceeding one year or~~  
7 ~~in the state prison, or by a fine not to exceed one thousand~~  
8 ~~dollars (\$1,000), or by both the fine and imprisonment.~~

9 ~~(A) A violation of paragraph (2), (4), or (5), of~~  
10 ~~subdivision (a).~~

11 ~~(B) A violation of paragraph (3) of subdivision (a)~~  
12 ~~involving the sale, loan, or transfer of a pistol, revolver, or~~  
13 ~~other firearm capable of being concealed upon the~~  
14 ~~person to a minor.~~

15 ~~(C) A violation of subdivision (b) involving the~~  
16 ~~delivery of a pistol, revolver, or other firearm capable of~~  
17 ~~being concealed upon the person.~~

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

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

24 ~~(F) A violation of subdivision (e).~~

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

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

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

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

38 ~~(B) A second violation of paragraph (9) of subdivision~~  
39 ~~(a) is an infraction punishable by a fine of one hundred~~  
40 ~~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. 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) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.~~

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

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

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

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

1     ~~(6) 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 himself or herself.~~

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

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

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

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

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

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

35     ~~(A) Submission of the register described in Section~~  
36 ~~12077.~~

37     ~~(B) Electronic or telephonic transfer of the~~  
38 ~~information contained in the register described in~~  
39 ~~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 information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.~~

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

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

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

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

~~(e) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser 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 to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer 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 information required to be provided for the electronic or telephone transfer and any person violating any provision of this section is guilty of a misdemeanor.~~

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

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

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

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

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

~~(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.~~

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

~~(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon~~

~~notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (c), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.~~

~~(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (c) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (c), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.~~

~~(c) The Department of Justice may require the dealer to charge each firearm purchaser a fee 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. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:~~

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

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

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

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

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

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

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

~~(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (e).~~

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

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

~~The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law~~

1 enforcement agencies for complying with the  
2 notification requirements set forth in subdivision (a) of  
3 Section 6385 of the Family Code, the estimated  
4 reasonable costs of local law enforcement agencies for  
5 complying with the notification requirements set forth in  
6 subdivision (c) of Section 8105 of the Welfare and  
7 Institutions Code imposed by paragraph (6) of this  
8 subdivision, the estimated reasonable costs of the  
9 Department of Food and Agriculture for the costs  
10 resulting from the notification provisions set forth in  
11 Section 5343.5 of the Food and Agricultural Code, and the  
12 estimated reasonable costs of the department for the costs  
13 associated with subparagraph (D) of paragraph (2) of  
14 subdivision (f) of Section 12072.

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

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

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

33 (C) For the actual costs associated with the  
34 preparation, sale, processing, and filing of reports utilized  
35 pursuant to paragraph (10) of subdivision (a) or  
36 subdivision (l) of Section 12078 or paragraph (18) of  
37 subdivision (b) of Section 12071, or clause (i) of  
38 subparagraph (A) of paragraph (2) of subdivision (f) of  
39 Section 12072, or paragraph (3) of subdivision (f) of  
40 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.~~

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

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

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

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

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

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

~~(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section;~~



~~subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and Sections 12289 and 12809.~~

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

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

1     ~~(4) “Seller” means, if the transaction is being~~  
2 ~~conducted pursuant to Section 12082, the person selling,~~  
3 ~~loaning, or transferring the firearm.~~

4     ~~SEC. 12. Section 12078 of the Penal Code is amended~~  
5 ~~to read:~~

6     ~~12078. (a) (1) The waiting periods described in~~  
7 ~~Sections 12071, 12072, and 12084 shall not apply to~~  
8 ~~deliveries, transfers, or sales of firearms made to persons~~  
9 ~~properly identified as full-time paid peace officers as~~  
10 ~~defined in Chapter 4.5 (commencing with Section 830) of~~  
11 ~~Title 3 of Part 2, provided that the peace officers are~~  
12 ~~authorized by their employer to carry firearms while in~~  
13 ~~the performance of their duties. Proper identification is~~  
14 ~~defined as verifiable written certification from the head~~  
15 ~~of the agency by which the purchaser or transferee is~~  
16 ~~employed, identifying the purchaser or transferee as a~~  
17 ~~peace officer who is authorized to carry firearms while in~~  
18 ~~the performance of his or her duties, and authorizing the~~  
19 ~~purchase or transfer. The certification shall be delivered~~  
20 ~~to the dealer or local law enforcement agency acting~~  
21 ~~pursuant to Section 12084 at the time of purchase or~~  
22 ~~transfer and the purchaser or transferee shall identify~~  
23 ~~himself or herself as the person authorized in the~~  
24 ~~certification. The dealer or local law enforcement agency~~  
25 ~~shall keep the certification with the record of sale, or~~  
26 ~~LEFT, as the case may be. On the date that the delivery,~~  
27 ~~sale, or transfer is made, the dealer delivering the firearm~~  
28 ~~or the law enforcement agency processing the~~  
29 ~~transaction pursuant to Section 12084 shall forward by~~  
30 ~~prepaid mail to the Department of Justice a report of the~~  
31 ~~transaction pursuant to subdivision (b) or (c) of Section~~  
32 ~~12077 or Section 12084. If electronic or telephonic transfer~~  
33 ~~of applicant information is used, on the date that the~~  
34 ~~application to purchase is completed, the dealer~~  
35 ~~delivering the firearm shall transmit to the Department~~  
36 ~~of Justice an electronic or telephonic report of the~~  
37 ~~transaction as is indicated in subdivision (b) or (c) of~~  
38 ~~Section 12077.~~

39     ~~(2) The preceding provisions of this article do not~~  
40 ~~apply to deliveries, transfers, or sales of firearms made to~~

~~1 authorized law enforcement representatives of cities,  
2 counties, cities and counties, or state or federal  
3 governments for exclusive use by those governmental  
4 agencies if, prior to the delivery, transfer, or sale of these  
5 firearms, written authorization from the head of the  
6 agency authorizing the transaction is presented to the  
7 person from whom the purchase, delivery, or transfer is  
8 being made. Proper written authorization is defined as  
9 verifiable written certification from the head of the  
10 agency by which the purchaser or transferee is employed,  
11 identifying the employee as an individual authorized to  
12 conduct the transaction, and authorizing the transaction  
13 for the exclusive use of the agency by which he or she is  
14 employed. Within 10 days of the date a pistol, revolver, or  
15 other firearm capable of being concealed upon the  
16 person is acquired by the agency, a record of the same  
17 shall be entered as an institutional weapon into the  
18 Automated Firearms System (AFS) via the California  
19 Law Enforcement Telecommunications System  
20 (CLETS) by the law enforcement or state agency. Those  
21 agencies without access to AFS shall arrange with the  
22 sheriff of the county in which the agency is located to  
23 input this information via this system.~~

~~24 (3) The preceding provisions of this article do not  
25 apply to the loan of a firearm made by an authorized law  
26 enforcement representative of a city, county, or city and  
27 county, or the state or federal government to a peace  
28 officer employed by that agency and authorized to carry  
29 a firearm for the carrying and use of that firearm by that  
30 peace officer in the course and scope of his or her duties.~~

~~31 (4) The preceding provisions of this article do not  
32 apply to the delivery, sale, or transfer of a firearm by a law  
33 enforcement agency to a peace officer pursuant to  
34 Section 10334 of the Public Contract Code. Within 10 days  
35 of the date that a pistol, revolver, or other firearm capable  
36 of being concealed upon the person is sold, delivered, or  
37 transferred pursuant to Section 10334 of the Public  
38 Contract Code to that peace officer, the name of the  
39 officer and the make, model, serial number, and other  
40 identifying characteristics of the firearm being sold,~~

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

~~9 (5) The preceding provisions of this article do not~~  
~~10 apply to the delivery, sale, or transfer of a firearm by a law~~  
~~11 enforcement agency to a retiring peace officer who is~~  
~~12 authorized to carry a firearm pursuant to Section 12027.1.~~  
~~13 Within 10 days of the date that a pistol, revolver, or other~~  
~~14 firearm capable of being concealed upon the person is~~  
~~15 sold, delivered, or transferred to that retiring peace~~  
~~16 officer, the name of the officer and the make, model,~~  
~~17 serial number, and other identifying characteristics of the~~  
~~18 firearm being sold, transferred, or delivered shall be~~  
~~19 entered into the Automated Firearms System (AFS) via~~  
~~20 the California Law Enforcement Telecommunications~~  
~~21 System (CLETS) by the law enforcement or state agency~~  
~~22 that sold, transferred, or delivered the firearm. Those~~  
~~23 agencies without access to AFS shall arrange with the~~  
~~24 sheriff of the county in which the agency is located to~~  
~~25 input this information via this system.~~

~~26 (6) Subdivision (d) of Section 12072 does not apply to~~  
~~27 sales, deliveries, or transfers of firearms to authorized~~  
~~28 representatives of cities, cities and counties, counties, or~~  
~~29 state or federal governments for those governmental~~  
~~30 agencies where the entity is acquiring the weapon as part~~  
~~31 of an authorized, voluntary program where the entity is~~  
~~32 buying or receiving weapons from private individuals.~~  
~~33 Any weapons acquired pursuant to this paragraph shall be~~  
~~34 disposed of pursuant to the applicable provisions of~~  
~~35 Section 12028 or 12032, provided that no firearm received~~  
~~36 pursuant to this paragraph may be resold or transferred~~  
~~37 to the public, or to persons licensed pursuant to Section~~  
~~38 12071.~~

~~39 (7) (A) The preceding provisions of this article do not~~  
~~40 apply to the acquisition of, receipt of, or disposition of a~~

1 ~~firearm by a duly authorized peace officer while~~  
2 ~~investigating violations of law in performance of his or her~~  
3 ~~official duties so long as that peace officer complies with~~  
4 ~~subparagraph (C).~~

5 ~~(B) The preceding provisions of this article do not~~  
6 ~~apply to the acquisition of, receipt of or disposition of a~~  
7 ~~firearm by any person working under the immediate~~  
8 ~~direction, supervision, or instruction of a duly authorized~~  
9 ~~peace officer investigating violations of law in~~  
10 ~~performance of his or her official duties so long as that~~  
11 ~~person turns over the firearm as soon as practicable to the~~  
12 ~~peace officer.~~

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

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

23 ~~(E) All firearms acquired by a law enforcement~~  
24 ~~agency pursuant to this paragraph shall be disposed of~~  
25 ~~pursuant to the applicable provisions of Section 12028,~~  
26 ~~12028.5, 12030, or 12032.~~

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

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

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

35 ~~(9) Subdivision (d) of Section 12072 shall not apply to~~  
36 ~~the sale, loan, delivery, or transfer of a firearm made by~~  
37 ~~an authorized law enforcement representative of a city,~~  
38 ~~county, city and county, or state or federal government~~  
39 ~~to any public or private nonprofit historical society;~~

~~1 museum, or institutional collection if all of the following  
2 conditions are met:~~

~~3 (A) The entity receiving the firearm is open to the  
4 public.~~

~~5 (B) The firearm prior to delivery is deactivated or  
6 rendered inoperable.~~

~~7 (C) The firearm is not required by other provisions of  
8 law to be dealt with as provided in Section 12028, 12028.5,  
9 12030, or 12032.~~

~~10 (D) The firearm may by other provisions of law be  
11 sold, delivered, or transferred to the public at large.~~

~~12 (E) Prior to delivery, the entity receiving the firearm  
13 agrees in writing that the firearm will not be restored to  
14 operating condition, and will either remain with that  
15 entity, or if subsequently disposed of, will be transferred,  
16 in accordance with the provisions of this article.~~

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

~~31 (10) Subdivision (d) of Section 12072 shall not apply to  
32 the sale, loan, delivery, or transfer of a firearm made by  
33 any person other than a representative of an authorized  
34 law enforcement agency, to any public or private  
35 nonprofit historical society, museum, or institutional  
36 collection if all of the following conditions are met:~~

~~37 (A) The entity receiving the firearm is open to the  
38 public.~~

~~39 (B) The firearm prior to delivery is deactivated or  
40 rendered inoperable.~~

1 ~~(C) Prior to delivery, the entity receiving the firearm~~  
2 ~~agrees in writing that the firearm will not be restored to~~  
3 ~~operating condition, and will either remain with that~~  
4 ~~entity, or if subsequently disposed of, will be transferred,~~  
5 ~~in accordance with the provisions of this article.~~

6 ~~(D) On the date that the firearm is sold, delivered, or~~  
7 ~~transferred to that entity, if the firearm is a pistol,~~  
8 ~~revolver, or other firearm capable of being concealed~~  
9 ~~upon the person or entity, the parties to the transaction~~  
10 ~~shall forward by prepaid mail or deliver in person to the~~  
11 ~~Department of Justice, a single report signed by both~~  
12 ~~parties to the transaction, that includes information~~  
13 ~~concerning the entity taking possession of the firearm,~~  
14 ~~how title was obtained and from whom, and a description~~  
15 ~~of the firearm in question. The report forms that are to be~~  
16 ~~completed pursuant to this paragraph shall be provided~~  
17 ~~to them by the Department of Justice.~~

18 ~~(11) Subdivision (d) of Section 12072 does not apply to~~  
19 ~~deliveries, transfers, or sales of firearms made by~~  
20 ~~authorized law enforcement representatives of cities,~~  
21 ~~counties, cities and counties, or state or federal~~  
22 ~~governments to wholesalers where all of the following~~  
23 ~~conditions are met:~~

24 ~~(A) Prior to the delivery, transfer, or sale of these~~  
25 ~~firearms, written authorization from the head of the~~  
26 ~~agency authorizing the transaction is presented to the~~  
27 ~~wholesaler. Proper written authorization is defined as~~  
28 ~~verifiable written certification from the head of the~~  
29 ~~agency that employs the purchaser or transferee,~~  
30 ~~identifying the employee as an individual authorized to~~  
31 ~~conduct the transaction.~~

32 ~~(B) In the case of an authorized law enforcement~~  
33 ~~representative of a city, county, city and county, or of the~~  
34 ~~state, the firearms are not firearms that are to be dealt~~  
35 ~~with pursuant to Section 12028, 12028.5, 12030, or 12032.~~

36 ~~(C) The firearms are part of a transaction involving a~~  
37 ~~trade or exchange of firearms wherein that agency is~~  
38 ~~receiving other firearms pursuant to paragraph (2) or~~  
39 ~~where the firearms are being returned to that wholesaler.~~



1     ~~(D) If the firearm is a pistol, revolver, or other firearm~~  
2 ~~capable of being concealed upon the person, within 10~~  
3 ~~days of the date that the firearm is sold, exchanged,~~  
4 ~~returned, transferred, or delivered to that wholesaler, the~~  
5 ~~name of the wholesaler, and the make, model, serial~~  
6 ~~number, and other identifying characteristics of the~~  
7 ~~firearm being sold, transferred, or delivered shall be~~  
8 ~~entered into the Automated Firearms System (AFS) via~~  
9 ~~the California Law Enforcement Telecommunications~~  
10 ~~System (CLETS) by the law enforcement or state agency~~  
11 ~~that sold, transferred, returned, exchanged, or delivered~~  
12 ~~the firearm. Those agencies without access to AFS shall~~  
13 ~~arrange with the sheriff of the county in which the agency~~  
14 ~~is located to input this information into this system. A~~  
15 ~~record of the same shall be entered into the Automated~~  
16 ~~Firearms System (AFS) via the California Law~~  
17 ~~Enforcement Telecommunications System (CLETS) by~~  
18 ~~the law enforcement or state agency. Those agencies~~  
19 ~~without access to AFS shall arrange with the sheriff of the~~  
20 ~~county in which the agency is located to input this~~  
21 ~~information into this system.~~

22     ~~(E) The transaction complies with Chapter 44~~  
23 ~~(commencing with Section 921) of Title 18 of the United~~  
24 ~~States Code and the regulations issued pursuant to that~~  
25 ~~chapter.~~

26     ~~(12) (A) In any case where a law enforcement agency~~  
27 ~~in accordance with the provisions of this article transfers~~  
28 ~~its ownership of a pistol, revolver, or other firearm~~  
29 ~~capable of being concealed upon the person that is not a~~  
30 ~~nuisance weapon subject to the provisions of Section~~  
31 ~~12028, 12028.5, 12030, or 12032, and the firearm is not~~  
32 ~~being transferred by that agency pursuant to paragraph~~  
33 ~~(2), (4), (5), (9), or (11) of this subdivision or subdivision~~  
34 ~~(i), within 10 days of the date that the pistol, revolver, or~~  
35 ~~other firearm capable of being concealed upon the~~  
36 ~~person is sold, delivered, or transferred, the name of the~~  
37 ~~agency that sold, transferred, or delivered the firearm~~  
38 ~~and to whom it was sold, delivered, or transferred, as well~~  
39 ~~as the make, model, serial number, and other identifying~~  
40 ~~characteristics of the firearm being sold, transferred, or~~

delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via CLETS.

(B) In any case where a law enforcement agency destroys any pistol, revolver, or other firearm capable of being concealed upon the person that is not a nuisance weapon subject to the provisions of Section 12028, 12028.5, 12030, or 12032, within 10 days of the same shall notify the department of the same. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number. That information shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that destroyed the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via CLETS.

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

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

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one

~~individual to another if both individuals are members of the same immediate family and both of the following conditions are met:~~

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

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

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

~~(A) Parent and child.~~

~~(B) Grandparent and grandchild.~~

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

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

~~(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state 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.~~

~~(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being~~

~~1 concealed upon the person, at auctions or similar events  
2 conducted by nonprofit mutual or public benefit  
3 corporations organized pursuant to the Corporations  
4 Code.~~

~~5 As used in this paragraph, the term “infrequent” shall  
6 not be construed to prohibit different local chapters of  
7 the same nonprofit corporation from conducting auctions  
8 or similar events, provided the individual local chapter  
9 conducts the auctions or similar events infrequently. It is  
10 the intent of the Legislature that different local chapters,  
11 representing different localities, be entitled to invoke the  
12 exemption created by this paragraph, notwithstanding  
13 the frequency with which other chapters of the same  
14 nonprofit corporation may conduct auctions or similar  
15 events.~~

~~16 (2) Subdivision (d) of Section 12072 shall not apply to  
17 the transfer of a firearm other than a pistol, revolver, or  
18 other firearm capable of being concealed upon the  
19 person, if the firearm is donated for an auction or similar  
20 event described in paragraph (1) and the firearm is  
21 delivered to the nonprofit corporation immediately  
22 preceding, or contemporaneous with, the auction or  
23 similar event.~~

~~24 (3) The waiting period described in Sections 12071 and  
25 12072 shall not apply to a dealer who delivers a firearm  
26 other than a pistol, revolver, or other firearm capable of  
27 being concealed upon the person, at an auction or similar  
28 event described in paragraph (1), as authorized by  
29 subparagraph (C) of paragraph (1) of subdivision (b) of  
30 Section 12071. Within two business days of completion of  
31 the application to purchase, the dealer shall forward by  
32 prepaid mail to the Department of Justice a report of the  
33 same as is indicated in subdivision (e) of Section 12077. If  
34 the electronic or telephonic transfer of applicant  
35 information is used, within two business days of  
36 completion of the application to purchase, the dealer  
37 delivering the firearm shall transmit to the Department  
38 of Justice an electronic or telephonic report of the same  
39 as is indicated in subdivision (e) of Section 12077.~~

~~(h) (1) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility that 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.~~

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

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

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

~~(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this~~

~~code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.~~

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

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

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

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

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

~~(C) Where the person receiving title or possession of the pistol, revolver, or other firearm capable of being~~

1 concealed upon the person is a person described in  
2 subparagraph (I) of paragraph (2) of subdivision (u), on  
3 the date that the person is delivered the firearm, the  
4 name and other information concerning the person  
5 taking possession of the firearm, how title or possession of  
6 the firearm was obtained and from whom, and a  
7 description of the firearm by make, model, serial number,  
8 and other identifying characteristics, shall be entered  
9 into the Automated Firearms System (AFS) via the  
10 California Law Enforcement Telecommunications  
11 System (CLETS) by the law enforcement or state agency  
12 that transferred or delivered the firearm. Those agencies  
13 without access to AFS shall arrange with the sheriff of the  
14 county in which the agency is located to input this  
15 information via this system.

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

39 (3) Subdivision (d) of Section 12072 shall not apply to  
40 a person who takes possession of a firearm by operation



1 of law in a representative capacity who subsequently  
2 transfers ownership of the firearm to himself or herself in  
3 his or her individual capacity. In the case of a pistol,  
4 revolver, or other firearm capable of being concealed  
5 upon the person, on and after April 1, 1994, that individual  
6 shall have a basic firearms safety certificate in order for  
7 the exemption set forth in this paragraph to apply.

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

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

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

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

23 (3) The delivery, sale, or transfer of unloaded firearms  
24 to a wholesaler if the firearms are being returned to the  
25 wholesaler and are intended as merchandise in the  
26 wholesaler's business.

27 (4) The delivery, sale, or transfer of unloaded firearms  
28 by one dealer to another dealer if the firearms are  
29 intended as merchandise in the receiving dealer's  
30 business upon proof that the person receiving the firearm  
31 is licensed pursuant to Section 12071.

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

36 (6) The loan of an unloaded firearm by a dealer who  
37 also operates a target facility that holds a business or  
38 regulatory license on the premises of the building  
39 designated in the license or whose building designated in  
40 the license is on the premises of any club or organization

~~1 organized for the purposes of practicing shooting at  
2 targets upon established ranges, whether public or  
3 private, to a person at that target facility or that club or  
4 organization, if the firearm is at all times kept within the  
5 premises of the target range or on the premises of the club  
6 or organization.~~

~~7 (l) A person who is exempt from subdivision (d) of  
8 Section 12072 or is otherwise not required by law to report  
9 his or her acquisition, ownership, or disposal of a pistol,  
10 revolver, or other firearm capable of being concealed  
11 upon the person or who moves out of this state with his  
12 or her pistol, revolver, or other firearm capable of being  
13 concealed upon the person may submit a report of the  
14 same to the Department of Justice in a format prescribed  
15 by the department.~~

~~16 (m) Subdivision (d) of Section 12072 shall not apply to  
17 the delivery, sale, or transfer of unloaded firearms to a  
18 wholesaler as merchandise in the wholesaler's business by  
19 manufacturers or importers licensed to engage in that  
20 business pursuant to Chapter 44 (commencing with  
21 Section 921) of Title 18 of the United States Code and the  
22 regulations issued pursuant thereto, or by another  
23 wholesaler, if the delivery, sale, or transfer is made in  
24 accordance with Chapter 44 (commencing with Section  
25 921) of Title 18 of the United States Code.~~

~~26 (n) (1) The waiting period described in Section 12071  
27 or 12072 shall not apply to the delivery, sale, or transfer  
28 of a pistol, revolver, or other firearm capable of being  
29 concealed upon the person by a dealer in either of the  
30 following situations:~~

~~31 (A) The dealer is delivering the firearm to another  
32 dealer and it is not intended as merchandise in the  
33 receiving dealer's business.~~

~~34 (B) The dealer is delivering the firearm to himself or  
35 herself and it is not intended as merchandise in his or her  
36 business.~~

~~37 (2) In order for this subdivision to apply, both of the  
38 following shall occur:~~

~~39 (A) If the dealer is receiving the firearm from another  
40 dealer, the dealer receiving the firearm shall present~~

1 ~~proof to the dealer delivering the firearm that he or she~~  
2 ~~is licensed pursuant to Section 12071.~~

3 ~~(B) Whether the dealer is delivering, selling, or~~  
4 ~~transferring the firearm to himself or herself or to another~~  
5 ~~dealer, on the date that the application to purchase is~~  
6 ~~completed, the dealer delivering the firearm shall~~  
7 ~~forward by prepaid mail to the Department of Justice a~~  
8 ~~report of the same and the type of information~~  
9 ~~concerning the purchaser or transferee as is indicated in~~  
10 ~~subdivision (b) of Section 12077. Where the electronic or~~  
11 ~~telephonic transfer of applicant information is used, on~~  
12 ~~the date that the application to purchase is completed,~~  
13 ~~the dealer delivering the firearm shall transmit an~~  
14 ~~electronic or telephonic report of the same and the type~~  
15 ~~of information concerning the purchaser or transferee as~~  
16 ~~is indicated in subdivision (b) of Section 12077.~~

17 ~~(c) Section 12071 and subdivisions (c) and (d) of~~  
18 ~~Section 12072 shall not apply to the delivery, sale, or~~  
19 ~~transfer of firearms regulated pursuant to Section 12020,~~  
20 ~~Chapter 2 (commencing with Section 12200), or Chapter~~  
21 ~~2.3 (commencing with Section 12275), if the delivery,~~  
22 ~~sale, or transfer is conducted in accordance with the~~  
23 ~~applicable provisions of Section 12020, Chapter 2~~  
24 ~~(commencing with Section 12200), or Chapter 2.3~~  
25 ~~(commencing with Section 12275).~~

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

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

39 ~~(A) The minor has the written consent of his or her~~  
40 ~~parent or legal guardian that is presented at the time of,~~

1 or prior to the time of, the loan, or is accompanied by his  
2 or her parent or legal guardian at the time the loan is  
3 made.

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

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

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

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

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

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

39 (4) Paragraph (3) of subdivision (a) of Section 12072  
40 shall not apply to the transfer or loan of a firearm that is

1 ~~not a pistol, revolver, or other firearm capable of being~~  
2 ~~concealed upon the person to a minor by his or her parent~~  
3 ~~or legal guardian.~~

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

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

17 ~~(r) The waiting period described in Section 12071,~~  
18 ~~12072, or 12084 shall not apply to the delivery, sale, or~~  
19 ~~transfer of a firearm to the holder of a special weapons~~  
20 ~~permit issued by the Department of Justice issued~~  
21 ~~pursuant to Section 12095, 12230, 12250, or 12305. On the~~  
22 ~~date that the application to purchase is completed, the~~  
23 ~~dealer delivering the firearm or the law enforcement~~  
24 ~~agency processing the transaction pursuant to Section~~  
25 ~~12084, shall forward by prepaid mail to the Department~~  
26 ~~of Justice a report of the same as described in subdivision~~  
27 ~~(b) or (c) of Section 12077 or Section 12084. If the~~  
28 ~~electronic or telephonic transfer of applicant information~~  
29 ~~is used, on the date that the application to purchase is~~  
30 ~~completed, the dealer delivering the firearm shall~~  
31 ~~transmit to the Department of Justice an electronic or~~  
32 ~~telephonic report of the same as is indicated in~~  
33 ~~subdivision (b) or (c) of Section 12077.~~

34 ~~(s) Subdivision (d) of Section 12072 shall not apply to~~  
35 ~~the loan of an unloaded firearm or the loan of a firearm~~  
36 ~~loaded with blank cartridges for use solely as a prop for~~  
37 ~~a motion picture, television, or video production or an~~  
38 ~~entertainment or theatrical event.~~

39 ~~(t) (1) The waiting period described in Sections~~  
40 ~~12071, 12072, and 12084 shall not apply to the sale,~~

1 ~~delivery, loan, or transfer of a firearm that is a curio or~~  
2 ~~relic, as defined in Section 178.11 of Title 27 of the Code~~  
3 ~~of Federal Regulations, by a dealer or through a law~~  
4 ~~enforcement agency to a person who is licensed as a~~  
5 ~~collector pursuant to Chapter 44 (commencing with~~  
6 ~~Section 921) of Title 18 of the United States Code and the~~  
7 ~~regulations issued pursuant thereto who has a current~~  
8 ~~certificate of eligibility issued to him or her by the~~  
9 ~~Department of Justice pursuant to Section 12071. On the~~  
10 ~~date that the delivery, sale, or transfer is made, the dealer~~  
11 ~~delivering the firearm or the law enforcement agency~~  
12 ~~processing the transaction pursuant to Section 12084, shall~~  
13 ~~forward by prepaid mail to the Department of Justice a~~  
14 ~~report of the transaction pursuant to subdivision (b) of~~  
15 ~~Section 12077 or Section 12084. If the electronic or~~  
16 ~~telephonic transfer of applicant information is used, on~~  
17 ~~the date that the application to purchase is completed,~~  
18 ~~the dealer delivering the firearm shall transmit to the~~  
19 ~~Department of Justice an electronic or telephonic report~~  
20 ~~of the transaction as is indicated in subdivision (b) or (c)~~  
21 ~~of Section 12077.~~

22 ~~(2) Subdivision (d) of Section 12072 shall not apply to~~  
23 ~~the infrequent sale, loan, or transfer of a firearm that is~~  
24 ~~not a pistol, revolver, or other firearm capable of being~~  
25 ~~concealed upon the person, which is a curio or relic~~  
26 ~~manufactured at least 50 years prior to the current date,~~  
27 ~~but not including replicas thereof, as defined in Section~~  
28 ~~178.11 of Title 27 of the Code of Federal Regulations.~~

29 ~~(u) As used in this section:~~

30 ~~(1) “Infrequent” has the same meaning as in~~  
31 ~~paragraph (1) of subdivision (c) of Section 12070.~~

32 ~~(2) “A person taking title or possession of firearms by~~  
33 ~~operation of law” includes, but is not limited to, any of the~~  
34 ~~following instances wherein an individual receives title~~  
35 ~~to, or possession of, firearms:~~

36 ~~(A) The executor or administrator of an estate if the~~  
37 ~~estate includes firearms.~~

38 ~~(B) A secured creditor or an agent or employee~~  
39 ~~thereof when the firearms are possessed as collateral for;~~

1 ~~or as a result of, a default under a security agreement~~  
2 ~~under the Commercial Code.~~

3 ~~(C) A levying officer, as defined in Section 481.140,~~  
4 ~~511.060, or 680.260 of the Code of Civil Procedure.~~

5 ~~(D) A receiver performing his or her functions as a~~  
6 ~~receiver if the receivership estate includes firearms.~~

7 ~~(E) A trustee in bankruptcy performing his or her~~  
8 ~~duties if the bankruptcy estate includes firearms.~~

9 ~~(F) An assignee for the benefit of creditors performing~~  
10 ~~his or her functions as an assignee, if the assignment~~  
11 ~~includes firearms.~~

12 ~~(G) A transmutation of property consisting of firearms~~  
13 ~~pursuant to Section 850 of the Family Code.~~

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

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

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

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

27 ~~12084. (a) As used in this section, the following~~  
28 ~~definitions apply:~~

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

33 ~~(2) "Seller" means the seller or transferor of a firearm~~  
34 ~~or the person loaning the firearm.~~

35 ~~(3) "Purchaser" means the purchaser or transferee of~~  
36 ~~a firearm or the person being loaned a firearm.~~

37 ~~(4) "Purchase" means the purchase, loan, sale, or~~  
38 ~~transfer of a firearm.~~

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

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

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

1     ~~(4) Ink shall be used to complete each LEFT. The~~  
2     ~~agency shall ensure that all information is provided~~  
3     ~~legibly. The purchaser and seller shall be informed that~~  
4     ~~incomplete or illegible information delays purchases.~~

5     ~~(5) Each original LEFT shall contain instructions~~  
6     ~~regarding the procedure for completion of the form and~~  
7     ~~the routing of the form. The agency shall comply with~~  
8     ~~these instructions which shall include the information set~~  
9     ~~forth in this subdivision.~~

10    ~~(6) One firearm transaction shall be reported on each~~  
11    ~~LEFT. For purposes of this paragraph, a "transaction"~~  
12    ~~means a single sale, loan, or transfer of any number of~~  
13    ~~firearms that are not pistols, revolvers, or other firearms~~  
14    ~~capable of being concealed upon the person between the~~  
15    ~~same two persons.~~

16    ~~(d) The following procedures shall be followed in~~  
17    ~~processing the purchase:~~

18    ~~(1) Without waiting for the conclusion of any waiting~~  
19    ~~period to elapse, the seller shall immediately deliver the~~  
20    ~~firearm to the agency solely to complete the LEFT. Upon~~  
21    ~~completion of the LEFT, the firearm shall be~~  
22    ~~immediately returned by the agency to the seller without~~  
23    ~~waiting for the waiting period to elapse.~~

24    ~~(2) The purchaser shall be required to present clear~~  
25    ~~evidence of his or her identity and age, as defined in~~  
26    ~~Section 12071, to the agency. The agency shall require the~~  
27    ~~purchaser to complete the original and one copy of the~~  
28    ~~LEFT. An employee of the agency shall then affix his or~~  
29    ~~her signature as a witness to the signature and~~  
30    ~~identification of the purchaser.~~

31    ~~(3) Two copies of the LEFT shall, on that date of~~  
32    ~~purchase, be placed in the mail, postage prepaid to the~~  
33    ~~department at Sacramento. The third copy shall be~~  
34    ~~provided to the purchaser and the fourth copy to the~~  
35    ~~seller.~~

36    ~~(4) The department shall examine its records, as well~~  
37    ~~as those records that it is authorized to request from the~~  
38    ~~State Department of Mental Health pursuant to Section~~  
39    ~~8104 of the Welfare and Institutions Code, in order to~~  
40    ~~determine if the purchaser is a person described in~~

~~1 Section 12021 or 12021.1 of this code or Section 8100 or  
2 8103 of the Welfare and Institutions Code.~~

~~3 (5) If the department determines that the copies of  
4 the LEFT submitted to it pursuant to paragraph (3)  
5 contain any blank spaces or inaccurate, illegible, or  
6 incomplete information, preventing identification of the  
7 purchaser or the firearm to be purchased, or if any fee  
8 required pursuant to paragraph (6) is not submitted by  
9 the agency in conjunction with submission of the copies  
10 of the LEFT, or if the department determines that the  
11 person is a person described in Section 12021 or 12021.1  
12 of this code or Section 8100 or 8103 of the Welfare and  
13 Institutions Code, it shall immediately notify the agency  
14 of that fact. Upon notification by the department, the  
15 purchaser shall submit any fee required pursuant to  
16 paragraph (6), as appropriate, and, if notification by the  
17 department is received by the agency at any time prior  
18 to delivery of the firearm, the delivery of the firearm shall  
19 be withheld until the conclusion of the waiting period  
20 described in paragraph (7).~~

~~21 (6) (A) The agency may charge a fee, not to exceed  
22 actual cost, sufficient to reimburse the agency for  
23 processing the transfer.~~

~~24 (B) The department may charge a fee, not to exceed  
25 actual cost, sufficient to reimburse the department for  
26 providing the information. The department shall charge  
27 the same fee that it would charge a dealer pursuant to  
28 Section 12082.~~

~~29 (7) The firearm shall not be delivered to the purchaser  
30 as follows:~~

~~31 (A) Prior to April 1, 1997, within 15 days of the  
32 application to purchase a pistol, revolver, or other firearm  
33 capable of being concealed upon the person, or, after  
34 notice by the department pursuant to paragraph (5),  
35 within 15 days of the submission to the department of any  
36 fees required pursuant to this subdivision, or within 15  
37 days of the submission to the department of any  
38 correction to the LEFT, whichever is later. Prior to April  
39 1, 1997, within 10 days of the application to purchase any  
40 firearm that is not a pistol, revolver, or other firearm~~

1 ~~capable of being concealed upon the person, or, after~~  
2 ~~notice by the department pursuant to paragraph (5),~~  
3 ~~within 10 days of the submission to the department of any~~  
4 ~~fees required pursuant to this subdivision, or within 10~~  
5 ~~days of the submission to the department of any~~  
6 ~~correction to the LEFT, whichever is later. On and after~~  
7 ~~April 1, 1997, within 10 days of the application to~~  
8 ~~purchase, or after notice by the department pursuant to~~  
9 ~~paragraph (5), within 10 days of the submission to the~~  
10 ~~department of any fees required pursuant to this~~  
11 ~~subdivision, or within 10 days of the submission to the~~  
12 ~~department of any correction to the LEFT, whichever is~~  
13 ~~later.~~

14 ~~(B) Unless unloaded.~~

15 ~~(C) In the case of a pistol, revolver, or other firearm~~  
16 ~~capable of being concealed upon the person, unless~~  
17 ~~securely wrapped or in a locked container.~~

18 ~~(D) Unless the purchaser presents clear evidence of~~  
19 ~~his or her identity and age to the agency.~~

20 ~~(E) Whenever the agency is notified by the~~  
21 ~~department that the person is in a prohibited class~~  
22 ~~described in Section 12021 or 12021.1, or Section 8100 or~~  
23 ~~8103 of the Welfare and Institutions Code.~~

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

25 ~~(G) In the case of a pistol, revolver, or other firearm~~  
26 ~~capable of being concealed upon the person,~~  
27 ~~commencing April 1, 1994, unless the purchaser presents~~  
28 ~~to the seller a basic firearms safety certificate.~~

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

30 ~~(8) (A) Until July 1, 2003, on the date that the seller~~  
31 ~~delivers a pistol, revolver, or other firearm capable of~~  
32 ~~being concealed upon the person to the purchaser, he or~~  
33 ~~she, if required by the Department of Justice, shall report~~  
34 ~~in a manner and format prescribed by the department~~  
35 ~~the date and time he or she delivered that pistol, revolver,~~  
36 ~~or other firearm capable of being concealed upon the~~  
37 ~~person to that purchaser.~~

38 ~~(B) Commencing July 1, 2003, on the date that the~~  
39 ~~seller delivers a pistol, revolver, or other firearm capable~~  
40 ~~of being concealed upon the person to the purchaser, he~~

1 or she shall report to the Department of Justice in a  
2 manner and format prescribed by the department the  
3 date and time he or she delivered that pistol, revolver, or  
4 other firearm capable of being concealed upon the  
5 person to that purchaser.

6 (e) The action of a law enforcement agency acting  
7 pursuant to Section 12084 shall be deemed to be a  
8 discretionary act within the meaning of the California  
9 Tort Claims Act pursuant to Division 3.6 (commencing  
10 with Section 810) of Title 1 of the Government Code.

11 (f) Whenever the Department of Justice acts pursuant  
12 to this section as it pertains to firearms other than pistols,  
13 revolvers, or other firearms capable of being concealed  
14 upon the person, its acts or omissions shall be deemed to  
15 be discretionary within the meaning of the California  
16 Tort Claims Act pursuant to Division 3.6 (commencing  
17 with Section 810) of Title 1 of the Government Code.

18 (g) Any person furnishing a fictitious name or address  
19 or knowingly furnishing any incorrect information or  
20 knowingly omitting any information required to be  
21 provided for the LEFT is guilty of a misdemeanor.

22 (h) All sums 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.

25 SEC. 14. Chapter 1180 of the Statutes of 1988 shall be  
26 known, and may be cited as, the Klehs Safe and  
27 Responsible Firearms Transfer Act of 1988.

28 SEC. 15. Chapter 462 of the Statutes of 1997 shall be  
29 known as, and may be cited as, the  
30 Shelley-Alpert-Ducheny Pistol-Revolver Registration  
31 Parity Act of 1997.

32 SEC. 16. It is not the intent of the Legislature in  
33 enacting paragraph (24) of subdivision (b) of Section  
34 12070 of the Penal Code and paragraph (8) of subdivision  
35 (a) of Section 12078 of the Penal Code to expand or  
36 narrow the application of current statutes and judicial  
37 decisions in other sections of law regarding the doctrine  
38 of "temporary lawful possession" recognized in *People v.*  
39 *Mijares* (1971) 6 Cal.3d 415, *People v. Hurtado* (1996) 47

~~Cal.App.4th 805, and People v. Pepper (1996) 41~~  
~~Cal.App.4th 1029.~~

~~SEC. 17.~~

*SEC. 6. Section 12078 of the Penal Code is amended to read:*

12078. (a) (1) The waiting periods described in Sections 12071, 12072, and 12084 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer or local law enforcement agency acting pursuant to Section 12084 at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer or local law enforcement agency shall keep the certification with the record of sale, or LEFT, as the case may be. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084 shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) or (c) of Section 12077 or Section 12084. If electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to

1 authorized law enforcement representatives of cities,  
2 counties, cities and counties, or state or federal  
3 governments for exclusive use by those governmental  
4 agencies if, prior to the delivery, transfer, or sale of these  
5 firearms, written authorization from the head of the  
6 agency authorizing the transaction is presented to the  
7 person from whom the purchase, delivery, or transfer is  
8 being made. Proper written authorization is defined as  
9 verifiable written certification from the head of the  
10 agency by which the purchaser or transferee is employed,  
11 identifying the employee as an individual authorized to  
12 conduct the transaction, and authorizing the transaction  
13 for the exclusive use of the agency by which he or she is  
14 employed. Within 10 days of the date a pistol, revolver, or  
15 other firearm capable of being concealed upon the  
16 person is acquired by the agency, a record of the same  
17 shall be entered as an institutional weapon into the  
18 Automated Firearms System (AFS) via the California  
19 Law Enforcement Telecommunications System  
20 (CLETS) by the law enforcement or state agency. Those  
21 agencies without access to AFS shall arrange with the  
22 sheriff of the county in which the agency is located to  
23 input this information via this system.

24 (3) The preceding provisions of this article do not  
25 apply to the loan of a firearm made by an authorized law  
26 enforcement representative of a city, county, or city and  
27 county, or the state or federal government to a peace  
28 officer employed by that agency and authorized to carry  
29 a firearm for the carrying and use of that firearm by that  
30 peace officer in the course and scope of his or her duties.

31 (4) The preceding provisions of this article do not  
32 apply to the delivery, sale, or transfer of a firearm by a law  
33 enforcement agency to a peace officer pursuant to  
34 Section 10334 of the Public Contract Code. Within 10 days  
35 of the date that a pistol, revolver, or other firearm capable  
36 of being concealed upon the person is sold, delivered, or  
37 transferred pursuant to Section 10334 of the Public  
38 Contract Code to that peace officer, the name of the  
39 officer and the make, model, serial number, and other  
40 identifying characteristics of the firearm being sold,



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

9 (5) The preceding provisions of this article do not  
10 apply to the delivery, sale, or transfer of a firearm by a law  
11 enforcement agency to a retiring peace officer who is  
12 authorized to carry a firearm pursuant to Section 12027.1.  
13 Within 10 days of the date that a pistol, revolver, or other  
14 firearm capable of being concealed upon the person is  
15 sold, delivered, or transferred to that retiring peace  
16 officer, the name of the officer and the make, model,  
17 serial number, and other identifying characteristics of the  
18 firearm being sold, transferred, or delivered shall be  
19 entered into the Automated Firearms System (AFS) via  
20 the California Law Enforcement Telecommunications  
21 System (CLETS) by the law enforcement or state agency  
22 that sold, transferred, or delivered the firearm. Those  
23 agencies without access to AFS shall arrange with the  
24 sheriff of the county in which the agency is located to  
25 input this information via this system.

26 (6) Subdivision (d) of Section 12072 does not apply to  
27 sales, deliveries, or transfers of firearms to authorized  
28 representatives of cities, cities and counties, counties, or  
29 state or federal governments for those governmental  
30 agencies where the entity is acquiring the weapon as part  
31 of an authorized, voluntary program where the entity is  
32 buying or receiving weapons from private individuals.  
33 Any weapons acquired pursuant to this subdivision shall  
34 be disposed of pursuant to the applicable provisions of  
35 Section 12028 or 12032, *provided that no firearm received*  
36 *pursuant to this paragraph may be resold or transferred*  
37 *to the public, or to persons licensed pursuant to Section*  
38 *12071.*

39 (7) (A) *In any case where a law enforcement agency*  
40 *in accordance with the provisions of this article transfers*

1 *its ownership of a pistol, revolver, or other firearm*  
2 *capable of being concealed upon the person that is not a*  
3 *nuisance weapon subject to the provisions of Section*  
4 *12028, 12028.5, 12030, or 12032, and the firearm is not*  
5 *being transferred by that agency pursuant to paragraph*  
6 *(2), (4), or (5), or subdivision (i), within 10 days of the*  
7 *date that the pistol, revolver, or other firearm capable of*  
8 *being concealed upon the person is sold, delivered, or*  
9 *transferred, the law enforcement agency shall enter into*  
10 *the Automated Firearms System (AFS) via the California*  
11 *Law Enforcement Telecommunications System*  
12 *(CLETS), the name of the agency, and to whom the*  
13 *firearm was sold, delivered, or transferred, and the make,*  
14 *model, serial number, and other identifying*  
15 *characteristics of the firearm. Those agencies without*  
16 *access to AFS shall arrange with the sheriff of the county*  
17 *in which the agency is located to input this information*  
18 *via CLETS.*

19 *(B) In any case where a law enforcement agency*  
20 *destroys any pistol, revolver, or other firearm capable of*  
21 *being concealed upon the person that is not a nuisance*  
22 *weapon subject to the provisions of Section 12028, 12028.5,*  
23 *12030, or 12032, within 10 days of the same shall notify the*  
24 *department of the same. This notification shall consist of*  
25 *a complete description of each firearm, including the*  
26 *name of the manufacturer or brand name, model, caliber,*  
27 *and serial number. That information shall be entered into*  
28 *the AFS via the CLETS by the law enforcement or state*  
29 *agency that destroyed the firearm. Those agencies*  
30 *without access to AFS shall arrange with the sheriff of the*  
31 *county in which the agency is located to input this*  
32 *information via CLETS.*

33 *(b) Section 12071 and subdivisions (c) and (d) of*  
34 *Section 12072 shall not apply to deliveries, sales, or*  
35 *transfers of firearms between or to importers and*  
36 *manufacturers of firearms licensed to engage in that*  
37 *business pursuant to Chapter 44 (commencing with*  
38 *Section 921) of Title 18 of the United States Code and the*  
39 *regulations issued pursuant thereto.*

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

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

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

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

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

(A) Parent and child.

(B) Grandparent and grandchild.

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

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state

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

7 (g) (1) Subdivision (d) of Section 12072 shall not  
8 apply to the infrequent sale or transfer of a firearm, other  
9 than a pistol, revolver, or other firearm capable of being  
10 concealed upon the person, at auctions or similar events  
11 conducted by nonprofit mutual or public benefit  
12 corporations organized pursuant to the Corporations  
13 Code.

14 As used in this paragraph, the term “infrequent” shall  
15 not be construed to prohibit different local chapters of  
16 the same nonprofit corporation from conducting auctions  
17 or similar events, provided the individual local chapter  
18 conducts the auctions or similar events infrequently. It is  
19 the intent of the Legislature that different local chapters,  
20 representing different localities, be entitled to invoke the  
21 exemption created by this paragraph, notwithstanding  
22 the frequency with which other chapters of the same  
23 nonprofit corporation may conduct auctions or similar  
24 events.

25 (2) Subdivision (d) of Section 12072 shall not apply to  
26 the transfer of a firearm other than a pistol, revolver, or  
27 other firearm capable of being concealed upon the  
28 person, if the firearm is donated for an auction or similar  
29 event described in paragraph (1) and the firearm is  
30 delivered to the nonprofit corporation immediately  
31 preceding, or contemporaneous with, the auction or  
32 similar event.

33 (3) The waiting period described in Sections 12071 and  
34 12072 shall not apply to a dealer who delivers a firearm  
35 other than a pistol, revolver, or other firearm capable of  
36 being concealed upon the person, at an auction or similar  
37 event described in paragraph (1), as authorized by  
38 subparagraph (C) of paragraph (1) of subdivision (b) of  
39 Section 12071. Within two business days of completion of  
40 the application to purchase, the dealer shall forward by

1 prepaid mail to the Department of Justice a report of the  
2 same as is indicated in subdivision (c) of Section 12077. If  
3 the electronic or telephonic transfer of applicant  
4 information is used, within two business days of  
5 completion of the application to purchase, the dealer  
6 delivering the firearm shall transmit to the Department  
7 of Justice an electronic or telephonic report of the same  
8 as is indicated in subdivision (c) of Section 12077.

9 (h) Subdivision (d) of Section 12072 shall not apply to  
10 the loan of a firearm for the purposes of shooting at targets  
11 if the loan occurs on the premises of a target facility that  
12 holds a business or regulatory license or on the premises  
13 of any club or organization organized for the purposes of  
14 practicing shooting at targets upon established ranges,  
15 whether public or private, if the firearm is at all times  
16 kept within the premises of the target range or on the  
17 premises of the club or organization.

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

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

32 (A) If the person taking title or possession is neither a  
33 levying officer as defined in Section 481.140, 511.060, or  
34 680.210 of the Code of Civil Procedure, nor a person who  
35 is receiving that firearm pursuant to subparagraph (G),  
36 (I), or (J) of paragraph (2) of subdivision (u), the person  
37 shall, within 30 days of taking possession, forward by  
38 prepaid mail or deliver in person to the Department of  
39 Justice, a report of information concerning the individual  
40 taking possession of the firearm, how title or possession



1 was obtained and from whom, and a description of the  
2 firearm in question. The reports that individuals  
3 complete pursuant to this paragraph shall be provided to  
4 them by the department.

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

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

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

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

38 (D) Where the person receiving title or possession of  
39 the pistol, revolver, or other firearm capable of being  
40 concealed upon the person is a person described in



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

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

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

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

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



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

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

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

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

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

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

39 (m) Subdivision (d) of Section 12072 shall not apply to  
40 the delivery, sale, or transfer of unloaded firearms to a



1 wholesaler as merchandise in the wholesaler's business by  
2 manufacturers or importers licensed to engage in that  
3 business pursuant to Chapter 44 (commencing with  
4 Section 921) of Title 18 of the United States Code and the  
5 regulations issued pursuant thereto, or by another  
6 wholesaler, if the delivery, sale, or transfer is made in  
7 accordance with Chapter 44 (commencing with Section  
8 921) of Title 18 of the United States Code.

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

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

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

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

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

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

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

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

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

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

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

35 (C) The duration of the loan does not exceed the  
36 amount of time that is reasonably necessary to engage in  
37 the lawful, recreational sport, including, but not limited  
38 to, competitive shooting, or agricultural, ranching, or  
39 hunting activity, or a motion picture, television, or video



1 production, or entertainment or theatrical event, the  
2 nature of which involves the use of a firearm.

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

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

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

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

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

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

36 (q) Subdivision (d) of Section 12072 shall not apply to  
37 the loan of a firearm that is not a pistol, revolver, or other  
38 firearm capable of being concealed upon the person to a  
39 licensed hunter for use by that licensed hunter for a

1 period of time not to exceed the duration of the hunting  
2 season for which that firearm is to be used.

3 (r) The waiting period described in Section 12071,  
4 12072, or 12084 shall not apply to the delivery, sale, or  
5 transfer of a firearm to the holder of a special weapons  
6 permit issued by the Department of Justice issued  
7 pursuant to Section 12095, 12230, 12250, or 12305. On the  
8 date that the application to purchase is completed, the  
9 dealer delivering the firearm or the law enforcement  
10 agency processing the transaction pursuant to Section  
11 12084, shall forward by prepaid mail to the Department  
12 of Justice a report of the same as described in subdivision  
13 (b) or (c) of Section 12077 or Section 12084. If the  
14 electronic or telephonic transfer of applicant information  
15 is used, on the date that the application to purchase is  
16 completed, the dealer delivering the firearm shall  
17 transmit to the Department of Justice an electronic or  
18 telephonic report of the same as is indicated in  
19 subdivision (b) or (c) of Section 12077.

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

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



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

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

15 (u) As used in this section:

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

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

22 (A) The executor or administrator of an estate if the  
23 estate includes firearms.

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

28 (C) A levying officer, as defined in Section 481.140,  
29 511.060, or 680.260 of the Code of Civil Procedure.

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

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

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

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

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

4 (I) Firearms received by the family of a police officer  
5 or deputy sheriff from a local agency pursuant to Section  
6 50081 of the Government Code.

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

12 The amendment to subdivision (k) of, and the addition  
13 of subdivision (n) to, Section 6389 of the Family Code,  
14 made by Section 1 of this act, are declaratory of existing  
15 law.

16 ~~SEC. 18.~~

17 *SEC. 7.* (a) The Legislature finds and declares all of  
18 the following:

19 (1) Current state firearms laws do not delineate a clear  
20 and succinct general procedure on how persons who  
21 legally acquire firearms and who subsequently fall within  
22 a class of persons prohibited from possessing firearms  
23 shall dispose of the firearm and thereby avoid criminal  
24 liability for possession or disposing of the firearm.

25 (2) Other states through various means have  
26 addressed the issue described in paragraph (1) through  
27 a statute of general application.

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

31 (1) Recommending a clear and succinct general  
32 procedure on how persons who legally acquire firearms  
33 and who subsequently fall within a class of persons  
34 prohibited from possessing a firearm shall dispose of the  
35 firearm and thereby avoid criminal liability for possession  
36 or disposing of the firearm.

37 (2) What specific changes in language and references  
38 to code sections, and conforming changes to code  
39 sections, in state firearms statutes are needed to establish  
40 a procedure described in paragraph (1).



1 ~~SEC. 19. No reimbursement is required by this act~~  
2 ~~pursuant to Section 6 of Article XIII B of the California~~  
3 ~~Constitution for certain costs that may be incurred by a~~  
4 ~~local agency or school district because in that regard this~~  
5 ~~act creates a new crime or infraction, eliminates a crime~~  
6 ~~or infraction, or changes the penalty for a crime or~~  
7 ~~infraction, within the meaning of Section 17556 of the~~  
8 ~~Government Code, or changes the definition of a crime~~  
9 ~~within the meaning of Section 6 of Article XIII B of the~~  
10 ~~California Constitution.~~

11 ~~However, notwithstanding Section 17610 of the~~  
12 ~~Government Code, if the Commission on State Mandates~~  
13 ~~determines that this act contains other costs mandated by~~  
14 ~~the state, reimbursement to local agencies and school~~  
15 ~~districts for those costs shall be made pursuant to Part 7~~  
16 ~~(commencing with Section 17500) of Division 4 of Title~~  
17 ~~2 of the Government Code. If the statewide cost of the~~  
18 ~~claim for reimbursement does not exceed one million~~  
19 ~~dollars (\$1,000,000), reimbursement shall be made from~~  
20 ~~the State Mandates Claims Fund.~~

21 *SEC. 8. Section 3.5 of this bill incorporates*  
22 *amendments to Section 12021 of the Penal Code proposed*  
23 *by both this bill and AB 1989. It shall only become*  
24 *operative if (1) both bills are enacted and become*  
25 *effective on or before January 1, 2001, (2) each bill*  
26 *amends Section 12021 of the Penal Code, and (3) this bill*  
27 *is enacted after AB 1989, in which case Section 4 of this bill*  
28 *shall not become operative.*