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AMENDED IN ASSEMBLY AUGUST 18, 2000
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

An act to amend Section 6389 of the Family Code, and to amend Sections 12001, 12021, 12026.2, 12030, and 12078 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, Peace. Firearms: delivery and transfer.

(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 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.

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

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

(4) Existing law, 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.



(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) *This bill would incorporate additional amendments to Sections 12001 and 12078 of the Penal Code proposed by AB 273 that would become operative if AB 273 becomes operative pursuant to provisions in AB 273.*

~~(8) 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.~~

(8) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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.

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

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

37 (d) If the respondent declines to relinquish possession
38 of any firearm based upon the assertion of the right

1 against self-incrimination, as provided by the Fifth
2 Amendment to the United States Constitution and
3 Section 15 of Article I of the California Constitution, the
4 court may grant use immunity for the act of relinquishing
5 the firearm required under this section.

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

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

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

1 and 12021.1 of the Penal Code and Sections 8100 and 8103
2 of the Welfare and Institutions Code, or (3) another
3 successive restraining order is used against the
4 respondent under this section. If the local law
5 enforcement agency determines that the respondent is
6 the legal owner of any firearm deposited with the local
7 law enforcement agency and is prohibited from
8 possessing any firearm, the respondent shall be entitled
9 to sell or transfer the firearm to a licensed dealer as
10 defined in Section 12071 of the Penal Code. If the firearm
11 has been stolen, the firearm shall be restored to the lawful
12 owner upon his or her identification of the firearm and
13 proof of ownership.

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

30 (h) The court may, as part of the relinquishment
31 order, grant an exemption from the relinquishment
32 requirements of this section for a particular firearm if the
33 respondent can show that a particular firearm is
34 necessary as a condition of continued employment and
35 that the current employer is unable to reassign the
36 respondent to another position where a firearm is
37 unnecessary. If an exemption is granted pursuant to this
38 subdivision, the order shall provide that the firearm shall
39 be in the physical possession of the respondent only
40 during scheduled work hours and during travel to and

1 from his or her place of employment. In any case
2 involving a peace officer who as a condition of
3 employment and whose personal safety depends on the
4 ability to carry a firearm, a court may allow the peace
5 officer to continue to carry a firearm, either on duty or off
6 duty, if the court finds by a preponderance of the
7 evidence that the officer does not pose a threat of harm.
8 Prior to making this finding, the court shall require a
9 mandatory psychological evaluation of the peace officer
10 and may require the peace officer to enter into
11 counseling or other remedial treatment program to deal
12 with any propensity for domestic violence.

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

25 (j) The disposition of any unclaimed property under
26 this section shall be made pursuant to Section 1413 of the
27 Penal Code.

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

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

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

39 (l) If the respondent notifies the court that he or she
40 owns a firearm that is not in his or her immediate

1 possession, the court may limit the order to exclude that
2 firearm if the judge is satisfied the respondent is unable
3 to gain access to that firearm while the protective order
4 is in effect.

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

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

14 SEC. 2. Section 12001 of the Penal Code is amended
15 to read:

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

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

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

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

(e) For purposes of Sections 12070, 12071, and 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, CO₂ pressure, or spring action, or any spot marker gun.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the 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. 2.5. Section 12001 of the Penal Code is amended to read:

12001. (a) (1) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term “handgun” means any “pistol,” “revolver,” or “firearm capable of being concealed upon the person.”

(3) As used in this code, the term “basic safety certificate” is deemed to mean “handgun safety license” as defined in Section 12060.

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

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

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

(e) For purposes of Sections 12070, 12071, and paragraph ~~(7)~~ (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term “firearm” does not include an unloaded firearm that 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 that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (3) The Judicial Council shall provide notice on all
39 protective orders that the respondent is prohibited from
40 possessing, purchasing, or receiving a firearm while the

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

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

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

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

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

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

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

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

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

37 SEC. 3.5. Section 12021 of the Penal Code is amended
38 to read:

39 12021. (a) (1) Any person who has been convicted
40 of a felony under the laws of the United States, of the State

1 of California, or any other state, government, or country,
2 or of an offense enumerated in subdivision (a), (b), or (d)
3 of Section 12001.6, or who is addicted to the use of any
4 narcotic drug, who owns or has in his or her possession or
5 under his or her custody or control any firearm is guilty
6 of a felony.

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

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

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

1 department of persons subject to this subdivision.
2 However, the prohibition in this paragraph may be
3 reduced, eliminated, or conditioned as provided in
4 paragraph (2) or (3).

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

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

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

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

35 In making its decision, the court shall consider the
36 petitioner's continued employment, the interest of
37 justice, any relevant evidence, and the totality of the
38 circumstances. The court shall require, as a condition of
39 granting relief from the prohibition under this section,
40 that the petitioner agree to participate in counseling as

1 deemed appropriate by the court. Relief from the
2 prohibition shall not relieve any other person or entity
3 from any liability that might otherwise be imposed. It is
4 the intent of the Legislature that courts exercise broad
5 discretion in fashioning appropriate relief under this
6 paragraph in cases in which relief is warranted. However,
7 nothing in this paragraph shall be construed to require
8 courts to grant relief to any particular petitioner. It is the
9 intent of the Legislature to permit persons who were
10 convicted of an offense specified in Section 273.5, 273.6,
11 or 646.9 to seek relief from the prohibition imposed by this
12 subdivision.

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

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

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

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

1 In making its decision, the court may consider the
2 interest of justice, any relevant evidence, and the totality
3 of the circumstances. It is the intent of the Legislature
4 that courts exercise broad discretion in fashioning
5 appropriate relief under this paragraph in cases in which
6 relief is warranted. However, nothing in this paragraph
7 shall be construed to require courts to grant relief to any
8 particular petitioner.

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

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

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

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

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

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

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

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

1 person is prohibited from purchasing or receiving or
2 attempting to purchase or receive a firearm and (2)
3 specifying the penalties for violating this subdivision, or
4 a court has provided actual verbal notice of the firearm
5 prohibition and penalty as provided in Section 6304 of the
6 Family Code.

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

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

35 (4) If probation is granted upon conviction of a
36 violation of this subdivision, the court shall impose
37 probation consistent with the provisions of Section
38 1203.097.

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

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

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

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

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

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

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

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

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

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

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is

1 at meetings of the clubs or organizations or while going
2 directly to, and coming directly from, those meetings.

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

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

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

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

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

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

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

38 (10) The transportation of a firearm by a person when
39 going directly to, or coming directly from, a place
40 designated by a person authorized to issue licenses

1 pursuant to Section 12050 when done at the request of the
2 issuing agency so that the issuing agency can determine
3 whether or not a license should be issued to that person
4 to carry that firearm.

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

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

19 (13) The transportation of a firearm by a person in
20 order to comply with subdivision (c) or (i) of Section
21 12078 as it pertains to that firearm.

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

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

31 (16) The transportation of a firearm by a person in
32 order to utilize paragraph (6) of subdivision (a) of
33 Section 12078 as it pertains to that firearm.

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

1 enforcement agency that he or she is transporting the
2 firearm to the law enforcement agency.

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

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

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

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

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

29 (23) The transportation of a firearm by a person to
30 whom the firearm is being returned pursuant to law to a
31 place where it may legally be kept pursuant to Section
32 12026.

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



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

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

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

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

(b) Any law enforcement agency that has custody of any firearms, or any parts of any firearms, that are subject to destruction as required by this chapter may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, or upon approval of a court, may release them to any other law enforcement agency for use in carrying out the official duties of that agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff’s office, or district attorney’s office any weapons which may be useful in carrying out the official duties of 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. 6. Section 12078 of the Penal Code is amended
16 to read:

17 12078. (a) (1) The waiting periods described in
18 Sections 12071, 12072, and 12084 shall not apply to
19 deliveries, transfers, or sales of firearms made to persons
20 properly identified as full-time paid peace officers as
21 defined in Chapter 4.5 (commencing with Section 830) of
22 Title 3 of Part 2, provided that the peace officers are
23 authorized by their employer to carry firearms while in
24 the performance of their duties. Proper identification is
25 defined as verifiable written certification from the head
26 of the agency by which the purchaser or transferee is
27 employed, identifying the purchaser or transferee as a
28 peace officer who is authorized to carry firearms while in
29 the performance of his or her duties, and authorizing the
30 purchase or transfer. The certification shall be delivered
31 to the dealer or local law enforcement agency acting
32 pursuant to Section 12084 at the time of purchase or
33 transfer and the purchaser or transferee shall identify
34 himself or herself as the person authorized in the
35 certification. The dealer or local law enforcement agency
36 shall keep the certification with the record of sale, or
37 LEFT, as the case may be. On the date that the delivery,
38 sale, or transfer is made, the dealer delivering the firearm
39 or the law enforcement agency processing the
40 transaction pursuant to Section 12084 shall forward by

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

10 (2) The preceding provisions of this article do not
11 apply to deliveries, transfers, or sales of firearms made to
12 authorized law enforcement representatives of cities,
13 counties, cities and counties, or state or federal
14 governments for exclusive use by those governmental
15 agencies if, prior to the delivery, transfer, or sale of these
16 firearms, written authorization from the head of the
17 agency authorizing the transaction is presented to the
18 person from whom the purchase, delivery, or transfer is
19 being made. Proper written authorization is defined as
20 verifiable written certification from the head of the
21 agency by which the purchaser or transferee is employed,
22 identifying the employee as an individual authorized to
23 conduct the transaction, and authorizing the transaction
24 for the exclusive use of the agency by which he or she is
25 employed. Within 10 days of the date a pistol, revolver, or
26 other firearm capable of being concealed upon the
27 person is acquired by the agency, a record of the same
28 shall be entered as an institutional weapon into the
29 Automated Firearms System (AFS) via the California
30 Law Enforcement Telecommunications System
31 (CLETS) by the law enforcement or state agency. Those
32 agencies without access to AFS shall arrange with the
33 sheriff of the county in which the agency is located to
34 input this information via this system.

35 (3) The preceding provisions of this article do not
36 apply to the loan of a firearm made by an authorized law
37 enforcement representative of a city, county, or city and
38 county, or the state or federal government to a peace
39 officer employed by that agency and authorized to carry

1 a firearm for the carrying and use of that firearm by that
2 peace officer in the course and scope of his or her duties.

3 (4) The preceding provisions of this article do not
4 apply to the delivery, sale, or transfer of a firearm by a law
5 enforcement agency to a peace officer pursuant to
6 Section 10334 of the Public Contract Code. Within 10 days
7 of the date that a pistol, revolver, or other firearm capable
8 of being concealed upon the person is sold, delivered, or
9 transferred pursuant to Section 10334 of the Public
10 Contract Code to that peace officer, the name of the
11 officer and the make, model, serial number, and other
12 identifying characteristics of the firearm being sold,
13 transferred, or delivered shall be entered into the
14 Automated Firearms System (AFS) via the California
15 Law Enforcement Telecommunications System
16 (CLETS) by the law enforcement or state agency that
17 sold, transferred, or delivered the firearm. Those
18 agencies without access to AFS shall arrange with the
19 sheriff of the county in which the agency is located to
20 input this information via this system.

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

38 (6) Subdivision (d) of Section 12072 does not apply to
39 sales, deliveries, or transfers of firearms to authorized
40 representatives of cities, cities and counties, counties, or

1 state or federal governments for those governmental
2 agencies where the entity is acquiring the weapon as part
3 of an authorized, voluntary program where the entity is
4 buying or receiving weapons from private individuals.
5 Any weapons acquired pursuant to this ~~subdivision~~
6 *paragraph* shall be disposed of pursuant to the applicable
7 provisions of Section 12028 or 12032, provided that no
8 firearm received pursuant to this paragraph may be
9 resold or transferred to the public, or to persons licensed
10 pursuant to Section 12071.

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

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



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

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

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

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

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

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

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

40 (A) Parent and child.

1 (B) Grandparent and grandchild.

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

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

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

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

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

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

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

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

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

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

38 (2) Subdivision (d) of Section 12072 shall not apply to
39 a person who takes title or possession of a pistol, revolver,
40 or other firearm capable of being concealed upon the

1 person by operation of law if the person is not prohibited
2 by Section 12021 or 12021.1 of this code or Section 8100 or
3 8103 of the Welfare and Institutions Code from possessing
4 firearms and all of the following conditions are met:

5 (A) If the person taking title or possession is neither a
6 levying officer as defined in Section 481.140, 511.060, or
7 680.210 of the Code of Civil Procedure, nor a person who
8 is receiving that firearm pursuant to subparagraph (G),
9 (I), or (J) of paragraph (2) of subdivision (u), the person
10 shall, within 30 days of taking possession, forward by
11 prepaid mail or deliver in person to the Department of
12 Justice, a report of information concerning the individual
13 taking possession of the firearm, how title or possession
14 was obtained and from whom, and a description of the
15 firearm in question. The reports that individuals
16 complete pursuant to this paragraph shall be provided to
17 them by the department.

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

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

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

34 (C) Where the person receiving title or possession of
35 the pistol, revolver, or other firearm capable of being
36 concealed upon the person is a person described in
37 subparagraph (I) of paragraph (2) of subdivision (u), on
38 the date that the person is delivered the firearm, the
39 name and other information concerning the person
40 taking possession of the firearm, how title or possession of

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

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

34 (3) Subdivision (d) of Section 12072 shall not apply to
35 a person who takes possession of a firearm by operation
36 of law in a representative capacity who subsequently
37 transfers ownership of the firearm to himself or herself in
38 his or her individual capacity. In the case of a pistol,
39 revolver, or other firearm capable of being concealed
40 upon the person, on and after April 1, 1994, that individual

1 shall have a basic firearms safety certificate in order for
2 the exemption set forth in this paragraph to apply.

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

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

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

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

18 (3) The delivery, sale, or transfer of unloaded firearms
19 to a wholesaler if the firearms are being returned to the
20 wholesaler and are intended as merchandise in the
21 wholesaler's business.

22 (4) The delivery, sale, or transfer of unloaded firearms
23 by one dealer to another dealer if the firearms are
24 intended as merchandise in the receiving dealer's
25 business upon proof that the person receiving the firearm
26 is licensed pursuant to Section 12071.

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

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



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

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

(m) Subdivision (d) of Section 12072 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers 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, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

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

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

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

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

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

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another

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

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

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

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

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



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

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

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

17 (3) 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 his or her parent or legal
21 guardian if both of the following circumstances exist:

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

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

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

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

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

(r) The waiting period described in Section 12071, 12072, or 12084 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, 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 same as described in subdivision (b) or (c) of Section 12077 or Section 12084. If the 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 same as is indicated in subdivision (b) or (c) of Section 12077.

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

(t) (1) The waiting period described in Sections 12071, 12072, and 12084 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, by a dealer or through a law

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

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

26 (u) As used in this section:

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

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

33 (A) The executor or administrator of an estate if the
34 estate includes firearms.

35 (B) A secured creditor or an agent or employee
36 thereof when the firearms are possessed as collateral for,
37 or as a result of, a default under a security agreement
38 under the Commercial Code.

39 (C) A levying officer, as defined in Section 481.140,
40 511.060, or 680.260 of the Code of Civil Procedure.

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

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

5 (F) An assignee for the benefit of creditors performing
6 his or her functions as an assignee, if the assignment
7 includes firearms.

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

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

13 (I) Firearms received by the family of a police officer
14 or deputy sheriff from a local agency pursuant to Section
15 50081 of the Government Code.

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

21 *SEC. 6.5. Section 12078 of the Penal Code is amended*
22 *to read:*

23 12078. (a) (1) The waiting periods described in
24 Sections 12071, 12072, and 12084 shall not apply to
25 deliveries, transfers, or sales of firearms made to persons
26 properly identified as full-time paid peace officers as
27 defined in Chapter 4.5 (commencing with Section 830) of
28 Title 3 of Part 2, provided that the peace officers are
29 authorized by their employer to carry firearms while in
30 the performance of their duties. Proper identification is
31 defined as verifiable written certification from the head
32 of the agency by which the purchaser or transferee is
33 employed, identifying the purchaser or transferee as a
34 peace officer who is authorized to carry firearms while in
35 the performance of his or her duties, and authorizing the
36 purchase or transfer. The certification shall be delivered
37 to the dealer or local law enforcement agency acting
38 pursuant to Section 12084 at the time of purchase or
39 transfer and the purchaser or transferee shall identify
40 himself or herself as the person authorized in the

1 certification. The dealer or local law enforcement agency
2 shall keep the certification with the record of sale, or
3 LEFT, as the case may be. On the date that the delivery,
4 sale, or transfer is made, the dealer delivering the firearm
5 or the law enforcement agency processing the
6 transaction pursuant to Section 12084 shall forward by
7 prepaid mail to the Department of Justice a report of the
8 transaction pursuant to subdivision (b) or (c) of Section
9 12077 or Section 12084. If electronic or telephonic transfer
10 of applicant information is used, on the date that the
11 application to purchase is completed, the dealer
12 delivering the firearm shall transmit to the Department
13 of Justice an electronic or telephonic report of the
14 transaction as is indicated in subdivision (b) or (c) of
15 Section 12077.

16 (2) The preceding provisions of this article do not
17 apply to deliveries, transfers, or sales of firearms made to
18 authorized law enforcement representatives of cities,
19 counties, cities and counties, or state or federal
20 governments for exclusive use by those governmental
21 agencies if, prior to the delivery, transfer, or sale of these
22 firearms, written authorization from the head of the
23 agency authorizing the transaction is presented to the
24 person from whom the purchase, delivery, or transfer is
25 being made. Proper written authorization is defined as
26 verifiable written certification from the head of the
27 agency by which the purchaser or transferee is employed,
28 identifying the employee as an individual authorized to
29 conduct the transaction, and authorizing the transaction
30 for the exclusive use of the agency by which he or she is
31 employed. Within 10 days of the date a pistol, revolver, or
32 other firearm capable of being concealed upon the
33 person is acquired by the agency, a record of the same
34 shall be entered as an institutional weapon into the
35 Automated Firearms System (AFS) via the California
36 Law Enforcement Telecommunications System
37 (CLETS) by the law enforcement or state agency. Those
38 agencies without access to AFS shall arrange with the
39 sheriff of the county in which the agency is located to
40 input this information via this system.



1 (3) The preceding provisions of this article do not
2 apply to the loan of a firearm made by an authorized law
3 enforcement representative of a city, county, or city and
4 county, or the state or federal government to a peace
5 officer employed by that agency and authorized to carry
6 a firearm for the carrying and use of that firearm by that
7 peace officer in the course and scope of his or her duties.

8 (4) The preceding provisions of this article do not
9 apply to the delivery, sale, or transfer of a firearm by a law
10 enforcement agency to a peace officer pursuant to
11 Section 10334 of the Public Contract Code. Within 10 days
12 of the date that a pistol, revolver, or other firearm capable
13 of being concealed upon the person is sold, delivered, or
14 transferred pursuant to Section 10334 of the Public
15 Contract Code to that peace officer, the name of the
16 officer and the make, model, serial number, and other
17 identifying characteristics of the firearm being sold,
18 transferred, or delivered shall be entered into the
19 Automated Firearms System (AFS) via the California
20 Law Enforcement Telecommunications System
21 (CLETS) by the law enforcement or state agency that
22 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 (5) The preceding provisions of this article do not
27 apply to the delivery, sale, or transfer of a firearm by a law
28 enforcement agency to a retiring peace officer who is
29 authorized to carry a firearm pursuant to Section 12027.1.
30 Within 10 days of the date that a pistol, revolver, or other
31 firearm capable of being concealed upon the person is
32 sold, delivered, or transferred to that retiring peace
33 officer, the name of the officer and the make, model,
34 serial number, and other identifying characteristics of the
35 firearm being sold, transferred, or delivered shall be
36 entered into the Automated Firearms System (AFS) via
37 the California Law Enforcement Telecommunications
38 System (CLETS) by the law enforcement or state agency
39 that sold, transferred, or delivered the firearm. Those
40 agencies without access to AFS shall arrange with the

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

3 (6) Subdivision (d) of Section 12072 does not apply to
4 sales, deliveries, or transfers of firearms to authorized
5 representatives of cities, cities and counties, counties, or
6 state or federal governments for those governmental
7 agencies where the entity is acquiring the weapon as part
8 of an authorized, voluntary program where the entity is
9 buying or receiving weapons from private individuals.
10 Any weapons acquired pursuant to this ~~subdivision~~
11 *paragraph* shall be disposed of pursuant to the applicable
12 provisions of Section 12028 or 12032, *provided that no*
13 *firearm received pursuant to this paragraph may be*
14 *resold or transferred to the public, or to persons licensed*
15 *pursuant to Section 12071.*

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

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

1 *department of the same. This notification shall consist of*
2 *a complete description of each firearm, including the*
3 *name of the manufacturer or brand name, model, caliber,*
4 *and serial number. That information shall be entered into*
5 *the AFS via the CLETS by the law enforcement or state*
6 *agency that destroyed the firearm. Those agencies*
7 *without access to AFS shall arrange with the sheriff of the*
8 *county in which the agency is located to input this*
9 *information via CLETS.*

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

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

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

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

1 (B) Prior to taking possession of the firearm, the
2 person taking title to the firearm shall obtain a basic
3 firearm safety certificate *or, commencing July 1, 2002, a*
4 *handgun safety license.*

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

7 (A) Parent and child.

8 (B) Grandparent and grandchild.

9 (d) Subdivision (d) of Section 12072 shall not apply to
10 the infrequent loan of firearms between persons who are
11 personally known to each other for any lawful purpose, if
12 the loan does not exceed 30 days in duration, *and when*
13 *the firearm is a handgun, provided however, that the*
14 *individual being loaned the handgun has a valid handgun*
15 *safety license pursuant to Section 12060.*

16 (e) Section 12071 and subdivisions (c) and (d) of
17 Section 12072 shall not apply to the delivery of a firearm
18 to a gunsmith for service or repair, *or the return of a*
19 *firearm to its owner by a gunsmith who has serviced or*
20 *repaired the firearm.*

21 (f) Subdivision (b) of Section 12060 and subdivision
22 (d) of Section 12072 shall not apply to the sale, delivery,
23 or transfer of firearms by persons who reside in this state
24 to persons who reside outside this state who are licensed
25 pursuant to Chapter 44 (commencing with Section 921)
26 of Title 18 of the United States Code and the regulations
27 issued pursuant thereto, if the sale, delivery, or transfer
28 is in accordance with Chapter 44 (commencing with
29 Section 921) of Title 18 of the United States Code and the
30 regulations issued pursuant thereto.

31 (g) (1) Subdivision (b) of Section 12060 and
32 subdivision (d) of Section 12072 shall not apply to the
33 infrequent sale or transfer of a firearm, other than a pistol,
34 revolver, or other firearm capable of being concealed
35 upon the person, at auctions or similar events conducted
36 by nonprofit mutual or public benefit corporations
37 organized pursuant to the Corporations Code.

38 As used in this paragraph, the term “infrequent” shall
39 not be construed to prohibit different local chapters of
40 the same nonprofit corporation from conducting auctions

1 or similar events, provided the individual local chapter
2 conducts the auctions or similar events infrequently. It is
3 the intent of the Legislature that different local chapters,
4 representing different localities, be entitled to invoke the
5 exemption created by this paragraph, notwithstanding
6 the frequency with which other chapters of the same
7 nonprofit corporation may conduct auctions or similar
8 events.

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

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

33 (h) Subdivision (b) of Section 12060 and subdivision
34 (d) of Section 12072 shall not apply to the loan of a firearm
35 for the purposes of shooting at targets if the loan occurs
36 on the premises of a target facility that holds a business or
37 regulatory license or on the premises of any club or
38 organization organized for the purposes of practicing
39 shooting at targets upon established ranges, whether
40 public or private, if the firearm is at all times kept within



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

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

10 (2) Subdivision (b) of Section 12060 and subdivision
11 (d) of Section 12072 shall not apply to a person who takes
12 title or possession of a pistol, revolver, or other firearm
13 capable of being concealed upon the person by operation
14 of law if the person is not prohibited by Section 12021 or
15 12021.1 of this code or Section 8100 or 8103 of the Welfare
16 and Institutions Code from possessing firearms, *provided*
17 *the person receiving the firearm has a valid handgun*
18 *safety license pursuant to Section 12060*, and all of the
19 following conditions are met:

20 (A) If the person taking title or possession is neither a
21 levying officer as defined in Section 481.140, 511.060, or
22 680.210 of the Code of Civil Procedure, nor a person who
23 is receiving that firearm pursuant to subparagraph (G),
24 (I), or (J) of paragraph (2) of subdivision (u), the person
25 shall, within 30 days of taking possession, forward by
26 prepaid mail or deliver in person to the Department of
27 Justice, a report of information concerning the individual
28 taking possession of the firearm, how title or possession
29 was obtained and from whom, and a description of the
30 firearm in question. The reports that individuals
31 complete pursuant to this paragraph shall be provided to
32 them by the department.

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

37 (i) Within 30 days of taking possession, forward by
38 prepaid mail or deliver in person to the department, a
39 report of information concerning the individual taking
40 possession of the firearm, how title or possession was

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

5 (ii) Prior to taking possession of the firearm, the
6 person shall either obtain a basic firearms safety
7 certificate or be exempt from obtaining a basic firearms
8 safety certificate pursuant to Section 12081 *or*,
9 *commencing July 1, 2002, obtain a handgun safety license.*

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

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

1 input this information via this system. In addition, that
2 law enforcement agency shall not deliver that pistol,
3 revolver, or other firearm capable of being concealed
4 upon the person to the person referred to in this
5 subparagraph unless prior to the delivery of the same the
6 person presents proof to the agency that he or she is the
7 holder of a basic firearms safety certificate or is exempt
8 from obtaining a basic firearms safety certificate pursuant
9 to Section 12081 *or, commencing July 1, 2002, is the holder*
10 *of a handgun safety license.*

11 (3) Subdivision (d) of Section 12072 shall not apply to
12 a person who takes possession of a firearm by operation
13 of law in a representative capacity who subsequently
14 transfers ownership of the firearm to himself or herself in
15 his or her individual capacity. In the case of a pistol,
16 revolver, or other firearm capable of being concealed
17 upon the person, on and after April 1, 1994, *and until July*
18 *1, 2002,* that individual shall have a basic firearms safety
19 certificate in order for the exemption set forth in this
20 paragraph to apply. *Commencing July 1, 2002, the*
21 *individual shall have a handgun safety license.*

22 (j) Subdivision (b) of Section 12060 and subdivision
23 (d) of Section 12072 shall not apply to deliveries,
24 transfers, or returns of firearms made pursuant to Section
25 12028, 12028.5, or 12030.

26 (k) Subdivision (b) of Section 12060, Section 12071 and
27 subdivision (c) of Section 12072 shall not apply to any of
28 the following:

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

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

39 (3) The delivery, sale, or transfer of unloaded firearms
40 to a wholesaler if the firearms are being returned to the

1 wholesaler and are intended as merchandise in the
2 wholesaler's business.

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

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

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

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

32 (m) Subdivision (b) of Section 12060 and subdivision
33 (d) of Section 12072 shall not apply to the delivery, sale,
34 or transfer of unloaded firearms to a wholesaler as
35 merchandise in the wholesaler's business by
36 manufacturers or importers 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, or by another
40 wholesaler, if the delivery, sale, or transfer is made in

1 accordance with Chapter 44 (commencing with Section
2 921) of Title 18 of the United States Code.

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

8 (A) The dealer is delivering the firearm to another
9 dealer and it is not intended as merchandise in the
10 receiving dealer's business.

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

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

16 (A) If the dealer is receiving the firearm from another
17 dealer, the dealer receiving the firearm shall present
18 proof to the dealer delivering the firearm that he or she
19 is licensed pursuant to Section 12071.

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

34 (o) Section 12071 and subdivisions (c) and (d) of
35 Section 12072 shall not apply to the delivery, sale, or
36 transfer of firearms regulated pursuant to Section 12020,
37 Chapter 2 (commencing with Section 12200), or Chapter
38 2.3 (commencing with Section 12275), if the delivery,
39 sale, or transfer is conducted in accordance with the
40 applicable provisions of Section 12020, Chapter 2

1 (commencing with Section 12200), or Chapter 2.3
2 (commencing with Section 12275).

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

10 (2) Paragraph (3) of subdivision (a) and subdivision
11 (d) of Section 12072 *and subdivision (b) of Section 12060*
12 shall not apply to the loan of a pistol, revolver, or other
13 firearm capable of being concealed upon the person to a
14 minor by a person who is not the parent or legal guardian
15 of the minor if all of the following circumstances exist:

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

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

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

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

37 (3) Paragraph (3) of subdivision (a) and subdivision
38 (d) of Section 12072 shall not apply to the loan of a pistol,
39 revolver, or other firearm capable of being concealed

1 upon the person to a minor by his or her parent or legal
2 guardian if both of the following circumstances exist:

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

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

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

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

29 (6) *Paragraph (3) of subdivision (a) of Section 12072*
30 *and subdivision (b) of Section 12060 shall not apply to the*
31 *loan of a handgun to an individual aged 18, 19, or 20 years,*
32 *provided that:*

33 (A) *The purpose of the loan is to engage in lawful,*
34 *recreational sport, including, but not limited to,*
35 *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.*

1 (B) *The duration of the loan does not exceed the*
2 *amount of time that is reasonably necessary to engage in*
3 *the activities specified in subparagraph (A).*

4 (C) *The duration of the loan does not, in any event,*
5 *exceed 10 days.*

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

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

29 (s) Subdivision (b) of Section 12060 and subdivision
30 (d) of Section 12072 shall not apply to the loan of an
31 unloaded firearm or the loan of a firearm loaded with
32 blank cartridges for use solely as a prop for a motion
33 picture, television, or video production or an
34 entertainment or theatrical event.

35 (t) (1) The waiting period described in Sections
36 12071, 12072, and 12084 shall not apply to the sale,
37 delivery, loan, or transfer of a firearm that is a curio or
38 relic, as defined in Section 178.11 of Title 27 of the Code
39 of Federal Regulations, by a dealer or through a law
40 enforcement agency to a person who is licensed as a

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

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

25 (u) As used in this section:

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

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

32 (A) The executor or administrator of an estate if the
33 estate includes firearms.

34 (B) A secured creditor or an agent or employee
35 thereof when the firearms are possessed as collateral for,
36 or as a result of, a default under a security agreement
37 under the Commercial Code.

38 (C) A levying officer, as defined in Section 481.140,
39 511.060, or 680.260 of the Code of Civil Procedure.

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

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

5 (F) An assignee for the benefit of creditors performing
6 his or her functions as an assignee, if the assignment
7 includes firearms.

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

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

13 (I) Firearms received by the family of a police officer
14 or deputy sheriff from a local agency pursuant to Section
15 50081 of the Government Code.

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

21 *(v) Subdivision (b) of Section 12060 shall not apply to*
22 *the delivery, sale, or transfer of handgun to a licensed*
23 *firearms dealer.*

24 *(w) Subdivision (b) of Section 12060 and subdivision*
25 *(d) of Section 12072 shall not apply to the loan of a*
26 *handgun provided all of the following are met:*

27 *(1) The handgun is registered to the owner pursuant*
28 *to Section 11106.*

29 *(2) The loan occurs within the registered handgun*
30 *owner's place of residence, or the handgun owner's*
31 *private property, except for property that is zoned for*
32 *commercial, retail, or industrial activity.*

33 *(3) The individual receiving the handgun is not*
34 *prohibited from owning or possessing a firearm pursuant*
35 *to Section 12021 or 12021.2 of this code, or by Section 8100*
36 *or 8103 of the Welfare and Institutions Code.*

37 *(4) The individual receiving the handgun is not under*
38 *the age of 21 years.*

39 SEC. 7. The amendment to subdivision (k) of, and the
40 addition of subdivision (n) to, Section 6389 of the Family

1 Code, made by Section 1 of this act, are declaratory of
2 existing law.

3 SEC. 8. (a) The Legislature finds and declares all of
4 the following:

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

11 (2) Other states through various means have
12 addressed the issue described in paragraph (1) through
13 a statute of general application.

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

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

23 (2) What specific changes in language and references
24 to code sections, and conforming changes to code
25 sections, in state firearms statutes are needed to establish
26 a procedure described in paragraph (1).

27 SEC. 9. *Section 2.5 of this bill incorporates*
28 *amendments to Section 12001 of the Penal Code proposed*
29 *by both this bill and AB 273. It shall only become*
30 *operative if (1) both bills are enacted and become*
31 *effective on or before January 1, 2001, but this bill*
32 *becomes operative first, (2) each bill amends Section*
33 *12001 of the Penal Code, and (3) this bill is enacted after*
34 *AB 273, in which case Section 12001 of the Penal Code, as*
35 *amended by Section 2 of this bill shall remain operative*
36 *only until the date that AB 273 becomes operative*
37 *pursuant to Section 10 of AB 273, at which time Section*
38 *2.5 of this bill shall become operative.*

39 SEC. 10. Section 3.5 of this bill incorporates
40 amendments to Section 12021 of the Penal Code proposed

1 by both this bill and AB 1989. It shall only become
2 operative if (1) both bills are enacted and become
3 effective on or before January 1, 2001, (2) each bill
4 amends Section 12021 of the Penal Code, and (3) this bill
5 is enacted after AB 1989, in which case Section 3 of this bill
6 shall not become operative.

7 *SEC. 11. Section 6.5 of this bill incorporates*
8 *amendments to Section 12078 of the Penal Code proposed*
9 *by both this bill and AB 273. It shall only become*
10 *operative if (1) both bills are enacted and become*
11 *effective on or before January 1, 2001, (2) each bill*
12 *amends Section 12078 of the Penal Code, and (3) this bill*
13 *is enacted after AB 273, in which case Section 12078 of the*
14 *Penal Code, as amended by Section 6 of this bill shall*
15 *remain operative only until the date that AB 273 becomes*
16 *operative pursuant to Section 10 of AB 273, at which time*
17 *Section 6.5 of this bill shall become operative.*

18
19 *SEC. 12. Notwithstanding Section 17610 of the*
20 *Government Code, if the Commission on State Mandates*
21 *determines that this act contains costs mandated by the*
22 *state, reimbursement to local agencies and school*
23 *districts for those costs shall be made pursuant to Part 7*
24 *(commencing with Section 17500) of Division 4 of Title*
25 *2 of the Government Code. If the statewide cost of the*
26 *claim for reimbursement does not exceed one million*
27 *dollars (\$1,000,000), reimbursement shall be made from*
28 *the State Mandates Claims Fund.*

