

AMENDED IN SENATE MARCH 24, 2009

SENATE BILL

No. 175

Introduced by Senator Aanestad

February 14, 2009

An act to amend ~~Section 12072~~ Sections 12070, 12072, 12078, and 12083 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Aanestad. Firearms.

Existing law, subject to exceptions, provides that no person shall sell, lease, or transfer firearms unless that person is licensed, as specified.

This bill would add exceptions to these provisions for the exchange of a firearm between federally licensed firearms dealers or to or from a gunsmith for purposes of service or repair.

Existing law provides that, commencing July 1, 2008, a person who is a federally licensed firearms dealer may not deliver, sell, or transfer a firearm to a person in California who is a federally licensed firearms dealer unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from the Department of Justice. One provision of law exempts from these verification number requirements any delivery, sale, or transfer of a short-barreled rifle, short-barreled shotgun, machinegun, or an assault weapon, as specified, while an alternate provision exempts from these verification number requirements the lawful delivery, sale, or transfer of these weapons, as specified.

The bill would delete these exemptions from the verification number requirements. This bill would create additional exemptions from the verification requirement for transfers of firearms between federally

licensed firearms dealers for purposes of service or repair and for certain other transactions.

~~Existing law generally regulates the transfer of firearms, including prohibiting a licensed firearms dealer from supplying, selling, delivering, or giving possession or control of a handgun to a person under 21 years of age.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

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

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

1 SECTION 1. Section 12070 of the Penal Code is amended to
2 read:

3 12070. (a) No person shall sell, lease, or transfer firearms
4 unless he or she has been issued a license pursuant to Section
5 12071. Any person violating this section is guilty of a
6 misdemeanor.

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

8 (1) The sale, lease, or transfer of any firearm by a person acting
9 pursuant to operation of law, a court order, or pursuant to the
10 Enforcement of Judgments Law (Title 9 (commencing with Section
11 680.010) of Part 2 of the Code of Civil Procedure), or by a person
12 who liquidates a personal firearm collection to satisfy a court
13 judgment.

14 (2) A person acting pursuant to subdivision (e) of Section
15 186.22a or subdivision (c) of Section 12028.

16 (3) The sale, lease, or transfer of a firearm by a person who
17 obtains title to the firearm by intestate succession or by bequest
18 or as a surviving spouse pursuant to Chapter 1 (commencing with
19 Section 13500) of Part 2 of Division 8 of the Probate Code,
20 provided the person disposes of the firearm within 60 days of
21 receipt of the firearm.

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

23 (5) The sale, lease, or transfer of used firearms other than ~~pistols,~~
24 ~~revolvers, or other firearms capable of being concealed upon the~~
25 ~~person~~ *handguns*, at gun shows or events, as specified in Section
26 12071, by a person other than a licensee or dealer, provided the
27 person has a valid federal firearms license and a current certificate

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

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

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

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

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

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

30 (8) Deliveries and transfers of firearms made pursuant to Section
31 12028, 12028.5, or 12030.

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

39 (10) Sales, deliveries, or transfers of firearms by manufacturers,
40 importers, or wholesalers licensed pursuant to Chapter 44

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

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

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

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

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

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

(16) 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 entertainment or theatrical event.

(17) The delivery of an unloaded firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, by a person licensed as a collector pursuant to Chapter

44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto with a current certificate of eligibility issued pursuant to Section 12071 to a dealer.

(18) *The delivery of a firearm by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code to another person licensed pursuant to Chapter 44 for service or repair of the firearm by the person receiving the firearm or the return of that firearm.*

(19) *Loans or returns of firearms to or from a gunsmith for service or repair.*

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

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~SECTION 1.~~

7 *SEC. 2.* Section 12072 of the Penal Code is amended to read:

8 12072. (a) (1) No person, corporation, or firm shall knowingly
9 supply, deliver, sell, or give possession or control of a firearm to
10 any person within any of the classes prohibited by Section 12021
11 or 12021.1.

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

17 (3) (A) No person, corporation, or firm shall sell, loan, or
18 transfer a firearm to a minor, nor sell a handgun to an individual
19 under 21 years of age.

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

22 (4) No person, corporation, or dealer shall sell, loan, or transfer
23 a firearm to any person whom he or she knows or has cause to
24 believe is not the actual purchaser or transferee of the firearm, or
25 to any person who is not the person actually being loaned the
26 firearm, if the person, corporation, or dealer has either of the
27 following:

28 (A) Knowledge that the firearm is to be subsequently loaned,
29 sold, or transferred to avoid the provisions of subdivision (c) or
30 (d).

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

34 (5) No person, corporation, or dealer shall acquire a firearm for
35 the purpose of selling, transferring, or loaning the firearm, if the
36 person, corporation, or dealer has either of the following:

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

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

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

1 (ii) The requirements of any exemption to the provisions of
2 subdivision (d).

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

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

7 (8) No person shall sell or otherwise transfer his or her
8 ownership in a ~~pistol, revolver, or other firearm capable of being~~
9 ~~concealed upon the person~~ *handgun* unless the firearm bears either:

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

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

14 (9) (A) No person shall make an application to purchase more
15 than one ~~pistol, revolver, or other firearm capable of being~~
16 ~~concealed upon the person~~ *handgun* within any 30-day period.

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

18 (i) Any law enforcement agency.

19 (ii) Any agency duly authorized to perform law enforcement
20 duties.

21 (iii) Any state or local correctional facility.

22 (iv) Any private security company licensed to do business in
23 California.

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

29 (vi) Any motion picture, television, or video production
30 company or entertainment or theatrical company whose production
31 by its nature involves the use of a firearm.

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

35 (viii) Any transaction conducted through a licensed firearms
36 dealer pursuant to Section 12082.

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

1 and who has a current certificate of eligibility issued to him or her
2 by the Department of Justice pursuant to Section 12071.

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

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

15 (xii) ~~The return of any pistol, revolver, or other firearm capable~~
16 ~~of being concealed upon the person~~ *handgun* to its owner.

17 (b) No person licensed under Section 12071 shall supply, sell,
18 deliver, or give possession or control of a handgun to any person
19 under the age of 21 years or any other firearm to a person under
20 the age of 18 years.

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

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

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

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

34 (4) Whenever the dealer is notified by the Department of Justice
35 that the person is prohibited by state or federal law from possessing,
36 receiving, owning, or purchasing a firearm.

37 (5) (A) Commencing April 1, 1994, and until January 1, 2003,
38 ~~no pistol, revolver, or other firearm capable of being concealed~~
39 ~~upon the person~~ *handgun* shall be delivered unless the purchaser,

1 transferee, or person being loaned the firearm presents to the dealer
2 a basic firearms safety certificate.

3 (B) Commencing January 1, 2003, no handgun shall be delivered
4 unless the purchaser, transferee, or person being loaned the
5 handgun presents a handgun safety certificate to the dealer.

6 ~~(6) No pistol, revolver, or other firearm capable of being~~
7 ~~concealed upon the person~~ *handgun* shall be delivered whenever
8 the dealer is notified by the Department of Justice that within the
9 preceding 30-day period the purchaser has made another
10 application to purchase a ~~pistol, revolver, or other firearm capable~~
11 ~~of being concealed upon the person~~ *handgun* and that the previous
12 application to purchase involved none of the entities specified in
13 subparagraph (B) of paragraph (9) of subdivision (a).

14 (d) Where neither party to the transaction holds a dealer's license
15 issued pursuant to Section 12071, the parties to the transaction
16 shall complete the sale, loan, or transfer of that firearm through a
17 licensed firearms dealer pursuant to Section 12082.

18 (e) No person may commit an act of collusion relating to Article
19 8 (commencing with Section 12800) of Chapter 6. For purposes
20 of this section and Section 12071, collusion may be proven by any
21 one of the following factors:

22 (1) Answering a test applicant's questions during an objective
23 test relating to firearms safety.

24 (2) Knowingly grading the examination falsely.

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

26 (4) Taking or allowing another person to take the basic firearms
27 safety course for one who is the applicant for a basic firearms
28 safety certificate or a handgun safety certificate.

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

31 (6) Using or allowing another to use one's identification, proof
32 of residency, or thumbprint.

33 (7) Allowing others to give unauthorized assistance during the
34 examination.

35 (8) Reference to unauthorized materials during the examination
36 and cheating by the applicant.

37 (9) Providing originals or photocopies of the objective test, or
38 any version thereof, to any person other than as authorized by the
39 department.

(f) (1) (A) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not deliver, sell, or transfer a firearm to a person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from the department. If Internet service is unavailable to either the department or the licensee due to a technical or other malfunction, or a federal firearms licensee who is located outside of California does not possess a computer or have Internet access, alternate means of communication, including facsimile or telephone, shall be made available for a licensee to obtain a verification number in order to comply with this section. ~~This subdivision shall not apply to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled shotgun, as defined in Section 12020, or to a machinegun as defined in Section 12200, or to an assault weapon as defined in Sections 12276, 12276.1, and 12276.5.~~

(B) For every ~~identification~~ verification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a) of Section 12083, or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086. *If the shipment involves a short-barreled rifle, as defined in Section 12020, a short-barreled shotgun, as defined in Section 12020, a firearm which is a destructive device, as defined in Section 12301, a machinegun, as defined in Section 12200, an assault weapon, as defined in Section 12276, 12276.1, or 12276.5, or a .50 BMG rifle, as defined in Section 12278, the department shall determine that the recipient is licensed pursuant to Section 12095, 12230, 12287, or 12305, as applicable, or is otherwise authorized to receive the firearm.*

(C) If the department finds *after the reviews specified in subparagraph (B)* that the intended recipient is ~~on one of these lists~~ *authorized to receive the firearm shipment*, the department shall issue to the inquiring party; a unique ~~identification~~ verification number for the intended delivery, sale, or transfer. *One verification number shall be issued for each delivery, sale, or transfer, which*

1 *may involve multiple firearms.* In addition to the unique verification
2 number, the department may provide to the inquiring party
3 information necessary for determining the eligibility of the intended
4 recipient to receive the firearm. The person intending to deliver,
5 sell, or transfer the firearm shall provide the unique verification
6 number to the recipient along with the firearm upon delivery, in a
7 manner to be determined by the department.

8 (D) If the department finds *after the reviews specified in*
9 *subparagraph (B)* that the intended recipient is not ~~on one of these~~
10 ~~lists authorized to receive the firearm shipment~~, the department
11 shall notify the inquiring party that the intended recipient is
12 ineligible to receive the ~~firearm shipment~~.

13 (E) The department shall prescribe the manner in which the
14 verification numbers may be requested via the Internet, or by
15 alternate means of communication, such as by facsimile or
16 telephone, including all required enrollment information and
17 procedures.

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

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

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

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

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

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

39 (C) The provisions of this paragraph are cumulative and shall
40 not be construed as restricting the application of any other law.

1 However, an act or omission punishable in different ways by this
2 section and different provisions of the Penal Code shall not be
3 punished under more than one provision.

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

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

11 (I) Work in conjunction with the Department of Motor Vehicles
12 to ensure that any person who is subject to this paragraph is advised
13 of the provisions of this paragraph, and provided with blank copies
14 of the report described in clause (i) of subparagraph (A) at the time
15 that person applies for a California driver's license or registers his
16 or her motor vehicle in accordance with the Vehicle Code.

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

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

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

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

39 (3) Where a person who is licensed as a collector pursuant to
40 Chapter 44 (commencing with Section 921) of Title 18 of the

United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a ~~pistol, revolver, or other firearm capable of being concealed upon the person~~ handgun that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 3. Section 12078 of the Penal Code is amended to read:

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

(2) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated

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

6 (3) Subdivision (b) of Section 12801 and the preceding
7 provisions of this article do not apply to the loan of a firearm made
8 by an authorized law enforcement representative of a city, county,
9 or city and county, or the state or federal government to a peace
10 officer employed by that agency and authorized to carry a firearm
11 for the carrying and use of that firearm by that peace officer in the
12 course and scope of his or her duties.

13 (4) Subdivision (b) of Section 12801 and the preceding
14 provisions of this article do not apply to the delivery, sale, or
15 transfer of a firearm by a law enforcement agency to a peace officer
16 pursuant to Section 10334 of the Public Contract Code. Within 10
17 days of the date that a handgun is sold, delivered, or transferred
18 pursuant to Section 10334 of the Public Contract Code to that
19 peace officer, the name of the officer and the make, model, serial
20 number, and other identifying characteristics of the firearm being
21 sold, transferred, or delivered shall be entered into the Automated
22 Firearms System (AFS) via the California Law Enforcement
23 Telecommunications System (CLETS) by the law enforcement or
24 state agency that sold, transferred, or delivered the firearm. Those
25 agencies without access to AFS shall arrange with the sheriff of
26 the county in which the agency is located to input this information
27 via this system.

28 (5) Subdivision (b) of Section 12801 and the preceding
29 provisions of this article do not apply to the delivery, sale, or
30 transfer of a firearm by a law enforcement agency to a retiring
31 peace officer who is authorized to carry a firearm pursuant to
32 Section 12027.1. Within 10 days of the date that a handgun is sold,
33 delivered, or transferred to that retiring peace officer, the name of
34 the officer and the make, model, serial number, and other
35 identifying characteristics of the firearm being sold, transferred,
36 or delivered shall be entered into the Automated Firearms System
37 (AFS) via the California Law Enforcement Telecommunications
38 System (CLETS) by the law enforcement or state agency that sold,
39 transferred, or delivered the firearm. Those agencies without access

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

3 (6) Subdivision (d) of Section 12072 and subdivision (b) of
4 Section 12801 do not apply to sales, deliveries, or transfers of
5 firearms to authorized representatives of cities, cities and counties,
6 counties, or state or federal governments for those governmental
7 agencies where the entity is acquiring the weapon as part of an
8 authorized, voluntary program where the entity is buying or
9 receiving weapons from private individuals. Any weapons acquired
10 pursuant to this paragraph shall be disposed of pursuant to the
11 applicable provisions of Section 12028 or 12032.

12 (7) Subdivision (d) of Section 12072 and subdivision (b) of
13 Section 12801 shall not apply to the sale, loan, delivery, or transfer
14 of a firearm made by an authorized law enforcement representative
15 of a city, county, city and county, state, or the federal government
16 to any public or private nonprofit historical society, museum, or
17 institutional collection or the purchase or receipt of that firearm
18 by that public or private nonprofit historical society, museum, or
19 institutional collection if all of the following conditions are met:

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

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

23 (C) The firearm is not subject to Section 12028, 12028.5, 12030,
24 or 12032.

25 (D) The firearm is not prohibited by other provisions of law
26 from being sold, delivered, or transferred to the public at large.

27 (E) Prior to delivery, the entity receiving the firearm submits a
28 written statement to the law enforcement representative stating
29 that the firearm will not be restored to operating condition, and
30 will either remain with that entity, or if subsequently disposed of,
31 will be transferred in accordance with the applicable provisions
32 of this article and, if applicable, Section 12801.

33 (F) Within 10 days of the date that the firearm is sold, loaned,
34 delivered, or transferred to that entity, the name of the government
35 entity delivering the firearm, and the make, model, serial number,
36 and other identifying characteristics of the firearm and the name
37 of the person authorized by the entity to take possession of the
38 firearm shall be reported to the department in a manner prescribed
39 by the department.

1 (G) In the event of a change in the status of the designated
2 representative, the entity shall notify the department of a new
3 representative within 30 days.

4 (8) Subdivision (d) of Section 12072 and subdivision (b) of
5 Section 12801 shall not apply to the sale, loan, delivery, or transfer
6 of a firearm made by any person other than a representative of an
7 authorized law enforcement agency to any public or private
8 nonprofit historical society, museum, or institutional collection if
9 all of the following conditions are met:

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

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

13 (C) The firearm is not of a type prohibited from being sold,
14 delivered, or transferred to the public.

15 (D) Prior to delivery, the entity receiving the firearm submits a
16 written statement to the person selling, loaning, or transferring the
17 firearm stating that the firearm will not be restored to operating
18 condition, and will either remain with that entity, or if subsequently
19 disposed of, will be transferred in accordance with the applicable
20 provisions of this article and, if applicable, Section 12801.

21 (E) If title to a handgun is being transferred to the public or
22 private nonprofit historical society, museum, or institutional
23 collection, then the designated representative of that public or
24 private historical society, museum or institutional collection within
25 30 days of taking possession of that handgun, shall forward by
26 prepaid mail or deliver in person to the Department of Justice, a
27 single report signed by both parties to the transaction, that includes
28 information identifying the person representing that public or
29 private historical society, museum, or institutional collection, how
30 title was obtained and from whom, and a description of the firearm
31 in question, along with a copy of the written statement referred to
32 in subparagraph (D). The report forms that are to be completed
33 pursuant to this paragraph shall be provided by the Department of
34 Justice.

35 (F) In the event of a change in the status of the designated
36 representative, the entity shall notify the department of a new
37 representative within 30 days.

38 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,
39 and subdivision (b) of Section 12801 shall not apply to deliveries,
40 sales, or transfers of firearms between or to importers and

1 manufacturers of firearms licensed to engage in that business
2 pursuant to Chapter 44 (commencing with Section 921) of Title
3 18 of the United States Code and the regulations issued pursuant
4 thereto.

5 (2) Subdivision (b) of Section 12801 shall not apply to the
6 delivery, sale, or transfer of a handgun to a person licensed pursuant
7 to Section 12071, where the licensee is receiving the handgun in
8 the course and scope of his or her activities as a person licensed
9 pursuant to Section 12071.

10 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
11 infrequent transfer of a firearm that is not a handgun by gift,
12 bequest, intestate succession, or other means by one individual to
13 another if both individuals are members of the same immediate
14 family.

15 (2) Subdivision (d) of Section 12072 shall not apply to the
16 infrequent transfer of a handgun by gift, bequest, intestate
17 succession, or other means by one individual to another if both
18 individuals are members of the same immediate family and all of
19 the following conditions are met:

20 (A) The person to whom the firearm is transferred shall, within
21 30 days of taking possession of the firearm, forward by prepaid
22 mail or deliver in person to the Department of Justice, a report that
23 includes information concerning the individual taking possession
24 of the firearm, how title was obtained and from whom, and a
25 description of the firearm in question. The report forms that
26 individuals complete pursuant to this paragraph shall be provided
27 to them by the Department of Justice.

28 (B) The person taking title to the firearm shall first obtain a
29 handgun safety certificate.

30 (C) The person receiving the firearm is 18 years of age or older.

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

33 (A) Parent and child.

34 (B) Grandparent and grandchild.

35 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
36 infrequent loan of firearms between persons who are personally
37 known to each other for any lawful purpose, if the loan does not
38 exceed 30 days in duration and, when the firearm is a handgun,
39 commencing January 1, 2003, the individual being loaned the
40 handgun has a valid handgun safety certificate.

(2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a firearm where all of the following conditions exist:

(A) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(B) The loan is for a lawful purpose.

(C) The loan does not exceed three days in duration.

(D) The individual receiving the firearm is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(E) The person loaning the firearm is 18 years of age or older.

(F) The person being loaned the firearm is 18 years of age or older.

(e) (1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

(2) *Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm for service or repair by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code to another person licensed pursuant to Chapter 44, or to the return of the firearm, if the delivery or return complies with Chapter 44.*

(3) *Paragraph (1) of subdivision (f) of Section 12072 shall not apply to the delivery, sale, or transfer of any firearm in any of the following circumstances:*

(A) *Where the transferor and the transferee are the same person or corporation.*

(B) *Where the transfer is to or from a person who has a valid entertainment firearms permit under Section 12081 and the transfer involves the loan or return of firearms used solely as props in television, film, or theatrical productions.*

(f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing

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

3 (g) (1) Subdivision (d) of Section 12072 shall not apply to the
4 infrequent sale or transfer of a firearm, other than a handgun, at
5 auctions or similar events conducted by nonprofit mutual or public
6 benefit corporations organized pursuant to the Corporations Code.

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

16 (2) Subdivision (d) of Section 12072 shall not apply to the
17 transfer of a firearm other than a handgun, if the firearm is donated
18 for an auction or similar event described in paragraph (1) and the
19 firearm is delivered to the nonprofit corporation immediately
20 preceding, or contemporaneous with, the auction or similar event.

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

34 (h) Subdivision (d) of Section 12072 and subdivision (b) of
35 Section 12801 shall not apply to the loan of a firearm to a person
36 18 years of age or older for the purposes of shooting at targets if
37 the loan occurs on the premises of a target facility that holds a
38 business or regulatory license or on the premises of any club or
39 organization organized for the purposes of practicing shooting at
40 targets upon established ranges, whether public or private, if the

1 firearm is at all times kept within the premises of the target range
2 or on the premises of the club or organization.

3 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
4 person who takes title or possession of a firearm that is not a
5 handgun by operation of law if the person is not prohibited by state
6 or federal law from possessing, receiving, owning, or purchasing
7 a firearm.

8 (2) Subdivision (d) of Section 12072 shall not apply to a person
9 who takes title or possession of a handgun by operation of law if
10 the person is not prohibited by state or federal law from possessing,
11 receiving, owning, or purchasing a firearm and all of the following
12 conditions are met:

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

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

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

34 (ii) Prior to taking title or possession of the firearm, the person
35 shall obtain a handgun safety certificate.

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

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

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

26 (3) Subdivision (d) of Section 12072 shall not apply to a person
27 who takes possession of a firearm by operation of law in a
28 representative capacity who subsequently transfers ownership of
29 the firearm to himself or herself in his or her individual capacity.
30 In the case of a handgun, the individual shall obtain a handgun
31 safety certificate prior to transferring ownership to himself or
32 herself, or taking possession of a handgun in an individual capacity.

33 (j) Subdivision (d) of Section 12072 and subdivision (b) of
34 Section 12801 shall not apply to deliveries, transfers, or returns
35 of firearms made pursuant to Section 12021.3, 12028, 12028.5, or
36 12030.

37 (k) Section 12071, subdivision (c) of Section 12072, and
38 subdivision (b) of Section 12801 shall not apply to any of the
39 following:

1 (1) The delivery, sale, or transfer of unloaded firearms that are
2 not handguns by a dealer to another dealer upon proof of
3 compliance with the requirements of paragraph (1) of subdivision
4 (f) of Section 12072.

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

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

12 (4) The delivery, sale, or transfer of unloaded firearms by one
13 dealer to another dealer if the firearms are intended as merchandise
14 in the receiving dealer's business upon proof of compliance with
15 the requirements of paragraph (1) of subdivision (f) of Section
16 12072.

17 (5) The delivery, sale, or transfer of an unloaded firearm that is
18 not a handgun by a dealer to himself or herself.

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

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

34 (m) Subdivision (d) of Section 12072 and subdivision (b) of
35 Section 12801 shall not apply to the delivery, sale, or transfer of
36 unloaded firearms to a wholesaler as merchandise in the
37 wholesaler's business by manufacturers or importers licensed to
38 engage in that business pursuant to Chapter 44 (commencing with
39 Section 921) of Title 18 of the United States Code and the
40 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 handgun 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 by complying with paragraph (1) of subdivision (f) of Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where 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 an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c); ~~and (d); and paragraph (1) of subdivision (f)~~ of Section 12072 shall not apply to the delivery, sale, or transfer of ~~firearms~~ *a firearm* regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), ~~or Chapter 2.3 (commencing with Section 12275), or Chapter 2.5 (commencing with Section 12301)~~, if the delivery, sale, or transfer ~~of that firearm~~ is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), ~~or Chapter 2.3 (commencing with Section 12275), or Chapter 2.5 (commencing with Section 12301)~~.

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

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

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

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

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

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

(3) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by his or her parent or legal guardian if both of the following circumstances exist:

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

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational

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

5 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
6 Section 12072 shall not apply to the transfer or loan of a firearm
7 that is not a handgun to a minor by his or her parent or legal
8 guardian.

9 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
10 Section 12072 shall not apply to the transfer or loan of a firearm
11 that is not a handgun to a minor by his or her grandparent who is
12 not the legal guardian of the minor if the transfer is done with the
13 express permission of the parent or legal guardian of the minor.

14 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
15 Section 12072 shall not apply to the sale of a handgun if both of
16 the following requirements are satisfied:

17 (A) The sale is to a person who is at least 18 years of age.

18 (B) The firearm is an antique firearm as defined in paragraph
19 (16) of subsection (a) of Section 921 of Title 18 of the United
20 States Code.

21 (q) Subdivision (d) of Section 12072 shall not apply to the loan
22 of a firearm that is not a handgun to a licensed hunter for use by
23 that licensed hunter for a period of time not to exceed the duration
24 of the hunting season for which that firearm is to be used.

25 (r) The waiting period described in Section 12071 or 12072
26 shall not apply to the delivery, sale, or transfer of a firearm to the
27 holder of a special weapons permit issued by the Department of
28 Justice issued pursuant to Section 12095, 12230, 12250, or 12305.
29 On the date that the application to purchase is completed, the dealer
30 delivering the firearm shall transmit to the Department of Justice
31 an electronic or telephonic report of the same as is indicated in
32 subdivision (b) or (c) of Section 12077.

33 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of
34 Section 12801 shall not apply to the infrequent loan of an unloaded
35 firearm by a person who is neither a dealer as defined in Section
36 12071 nor a federal firearms licensee pursuant to Chapter 44 of
37 Title 18 of the United States Code, to a person 18 years of age or
38 older for use solely as a prop in a motion picture, television, video,
39 theatrical, or other entertainment production or event.

(2) Subdivision (d), and paragraph (1) of subdivision (f), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a person who is not a dealer as defined in Section 12071 but who is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The person loaning the firearm pursuant to this paragraph shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(3) Subdivision (b) of Section 12071, subdivision (c) of, and paragraph (1) of subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a dealer as defined in Section 12071, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(4) Subdivision (b) of Section 12071, subdivision (c) and paragraph (1) of subdivision (f) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Section 12071 if the loan does not exceed 45 days from the date of delivery. At the time of the loan, the consultant-evaluator shall provide the following information, which the dealer shall retain for two years:

(A) A photocopy of a valid, current, government-issued identification to determine the consultant-evaluator's identity, including, but not limited to, a California driver's license, identification card, or passport.

(B) A photocopy of the consultant-evaluator's valid, current certificate of eligibility.

(C) A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the

1 firearm is being loaned and confirm that the consultant-evaluator
2 is being loaned the firearm as part of a bona fide business
3 relationship.

4 (D) The signature of the consultant-evaluator on a form
5 indicating the date the firearm is loaned and the last day the firearm
6 may be returned.

7 (t) (1) The waiting ~~period~~ *periods* described in ~~Section~~ *Sections*
8 ~~12071-or and 12072, and the requirements of paragraph (1) of~~
9 *subdivision (f) of Section 12072*, shall not apply to the sale,
10 delivery, loan, or transfer of a firearm that is a curio or relic, as
11 defined in Section 478.11 of Title 27 of the Code of Federal
12 Regulations, or its successor, by a dealer to a person who is
13 licensed as a collector pursuant to Chapter 44 (commencing with
14 Section 921) of Title 18 of the United States Code and the
15 regulations issued pursuant thereto who has a current certificate
16 of eligibility issued to him or her by the Department of Justice
17 pursuant to Section 12071. On the date that the delivery, sale, or
18 transfer is made, the dealer delivering the firearm shall transmit
19 to the Department of Justice an electronic or telephonic report of
20 the transaction as is indicated in subdivision (b) or (c) of Section
21 12077.

22 (2) Subdivision (d) and paragraph (1) of subdivision (f) of
23 Section 12072 shall not apply to the infrequent sale, loan, or
24 transfer of a firearm that is not a handgun, which is a curio or relic
25 manufactured at least 50 years prior to the current date, but not
26 including replicas thereof, as defined in Section 478.11 of Title
27 27 of the Code of Federal Regulations, or its successor.

28 (u) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

22 *SEC. 4. Section 12083 of the Penal Code is amended to read:*

23 12083. (a) Commencing January 1, 2008, the Department of
24 Justice shall keep a centralized list of persons who identify
25 themselves as being licensed pursuant to Chapter 44 (commencing
26 with Section 921) of Title 18 of the United States Code as a dealer,
27 pawnbroker, importer or manufacturer of firearms whose licensed
28 premises are within this state and who declare to the department
29 an exemption from the firearms dealer licensing requirements of
30 Section 12070. The list shall be known as the centralized list of
31 exempted federal firearms licensees. To qualify for placement on
32 the centralized list, an applicant shall do all of the following:

33 (1) Possess a valid federal firearms license pursuant to Chapter
34 44 (commencing with Section 921) of Title 18 of the United States
35 Code as a dealer, pawnbroker, importer, or manufacturer of
36 firearms.

37 ~~(2) Maintain eligibility under California law to possess firearms~~
38 ~~by possessing—~~ Possess a current, valid certificate of eligibility
39 pursuant to Section 12071.

1 (3) Maintain with the department a signed declaration
2 enumerating the applicant's statutory exemptions from licensing
3 requirements of Section 12070. Any person furnishing a fictitious
4 name, knowingly furnishing any incorrect information, or
5 knowingly omitting any information for the declaration shall be
6 guilty of a misdemeanor.

7 (b) Commencing January 1, 2008, the department shall assess
8 an annual fee of one hundred fifteen dollars (\$115) to cover its
9 costs of maintaining the centralized list of exempted federal
10 firearms licensees prescribed by subdivision (a), conducting
11 inspections in accordance with this section, and for the cost of
12 maintaining the firearm shipment verification number system
13 described in subdivision (f) of Section 12072. The department may
14 increase the fee at a rate not to exceed the increase in the California
15 Consumer Price Index as compiled and reported by the Department
16 of Industrial Relations. The fees collected shall be deposited in
17 the Dealers' Record of Sale Special Account.

18 (c) (1) Any person licensed pursuant to Chapter 44
19 (commencing with Section 921) of Title 18 of the United States
20 Code as a dealer, pawnbroker, importer, or manufacturer of
21 firearms whose licensed premises are within this state shall not
22 import or receive firearms from any source unless listed on the
23 centralized list of firearms dealers pursuant to Section 12071, or
24 the centralized list of exempted federal firearms licensees pursuant
25 to subdivision (a), or the centralized list of firearms manufacturers
26 pursuant to subdivision (f) of Section 12086.

27 (2) A violation of this subdivision is a misdemeanor.

28 (d) (1) All persons on the centralized list of exempted federal
29 firearms licensees prescribed by subdivision (a) shall record and
30 keep on file for three years, the verification number that shall
31 accompany firearms received from other federal firearms licensees
32 pursuant to subdivision (f) of Section 12072.

33 (2) A violation of this subdivision is cause for immediate
34 removal from the centralized list.

35 (e) Information compiled from the list described in subdivision
36 (a) shall be made available for the following purposes:

37 (1) Requests from local, state, and federal law enforcing
38 agencies and the duly constituted city, county, and city and county
39 licensing authorities.

1 (2) When the information is requested by a person licensed
2 pursuant to Chapter 44 (commencing with Section 921) of Title
3 18 of the United States Code for determining the validity of the
4 license for firearm shipments.

5 (f) The department may conduct onsite inspections at the
6 business premises of a person on the centralized list described in
7 subdivision (a) to determine compliance with firearms laws
8 pursuant to Article 4 (commencing with Section 12070) of Chapter
9 1 of Title 2 of Part 4 of the Penal Code. The department shall work
10 in consultation with the Bureau of Alcohol, Tobacco, Firearms,
11 and Explosives to ensure that licensees are not subject to
12 duplicative inspections. During the inspection the following firearm
13 records shall be made available for review:

14 (1) Federal records referred to in subdivision (a) of Section
15 478.125 of Title 27 of the Code of Federal Regulations and the
16 bound book containing the same information referred to in Section
17 478.124a and subdivision (e) of Section 478.125 of Title 27 of the
18 Code of Federal Regulations.

19 (2) Verification numbers issued pursuant to subdivision (f) of
20 Section 12072.

21 (3) Any other records requested by the department to determine
22 compliance with this article.

23 (g) The department may remove from the centralized list
24 described in subdivision (a), any person who violates this article.

25 (h) The department may adopt regulations as necessary to carry
26 out the provisions of this section, subdivision (f) of Section 12072,
27 and Section 12071. The department shall work in consultation with
28 the Bureau of Alcohol, Tobacco, Firearms, and Explosives to
29 ensure that state regulations are not duplicative of federal
30 regulations.