

AMENDED IN SENATE APRIL 21, 2009  
AMENDED IN SENATE APRIL 13, 2009  
AMENDED IN SENATE MARCH 24, 2009

**SENATE BILL**

**No. 175**

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**Introduced by Senator Aanestad**

February 14, 2009

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An act to amend 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 *only* 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.

Vote: majority. Appropriation: no. Fiscal committee: 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  
24 handguns, at gun shows or events, as specified in Section 12071,  
25 by a person other than a licensee or dealer, provided the person  
26 has a valid federal firearms license and a current certificate of  
27 eligibility issued by the Department of Justice, as specified in  
28 Section 12071, and provided all the sales, leases, or transfers fully  
29 comply with subdivision (d) of Section 12072. However, the person  
30 shall not engage in the sale, lease, or transfer of used firearms other

1 than handguns at more than 12 gun shows or events in any calendar  
2 year and shall not sell, lease, or transfer more than 15 used firearms  
3 other than handguns at any single gun show or event. In no event  
4 shall the person sell more than 75 used firearms other than  
5 handguns in any calendar year.

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

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

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

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

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

23 (8) Deliveries and transfers of firearms made pursuant to Section  
24 12028, 12028.5, or 12030.

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

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

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

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

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

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

28 (16) The loan of an unloaded firearm or the loan of a firearm  
29 loaded with blank cartridges for use solely as a prop for a motion  
30 picture, television, or video production or entertainment or  
31 theatrical event.

32 (17) The delivery of an unloaded firearm that is a curio or relic,  
33 as defined in Section 478.11 of Title 27 of the Code of Federal  
34 Regulations, by a person licensed as a collector pursuant to Chapter  
35 44 (commencing with Section 921) of Title 18 of the United States  
36 Code and the regulations issued pursuant thereto with a current  
37 certificate of eligibility issued pursuant to Section 12071 to a  
38 dealer.

39 ~~(18) The delivery of a firearm by a person licensed pursuant to~~  
40 ~~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)

(18) 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 handguns, less than six transactions per calendar year. For this purpose, “transaction” means a single sale, lease, or transfer of any number of handguns.

(B) For firearms other than 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.

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

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

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to

1 any person within any of the classes prohibited by Section 12021  
2 or 12021.1.

3 (2) No person, corporation, or dealer shall sell, supply, deliver,  
4 or give possession or control of a firearm to any person whom he  
5 or she has cause to believe to be within any of the classes  
6 prohibited by Section 12021 or 12021.1 of this code or Section  
7 8100 or 8103 of the Welfare and Institutions Code.

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

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

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

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

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

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

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

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

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

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

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

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

38 (8) No person shall sell or otherwise transfer his or her  
39 ownership in a handgun unless the firearm bears either:

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

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

(9) (A) No person shall make an application to purchase more than one handgun within any 30-day period.

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

(i) Any law enforcement agency.

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

(iii) Any state or local correctional facility.

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

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

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

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

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

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

(x) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(xi) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which he or she resides.

(xii) The return of any handgun to its owner.

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

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

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

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

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

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

(5) (A) Commencing April 1, 1994, and until January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

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

(6) No handgun shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

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

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes

1 of this section and Section 12071, collusion may be proven by any  
2 one of the following factors:

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

5 (2) Knowingly grading the examination falsely.

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

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

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

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

14 (7) Allowing others to give unauthorized assistance during the  
15 examination.

16 (8) Reference to unauthorized materials during the examination  
17 and cheating by the applicant.

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

21 (f) (1) (A) Commencing July 1, 2008, a person who is licensed  
22 pursuant to Chapter 44 (commencing with Section 921) of Title  
23 18 of the United States Code may not deliver, sell, or transfer a  
24 firearm to a person in California who is licensed pursuant to  
25 Chapter 44 (commencing with Section 921) of Title 18 of the  
26 United States Code unless, prior to delivery, the person intending  
27 to deliver, sell, or transfer the firearm obtains a verification number  
28 via the Internet for the intended delivery, sale, or transfer, from  
29 the department. If Internet service is unavailable to either the  
30 department or the licensee due to a technical or other malfunction,  
31 or a federal firearms licensee who is located outside of California  
32 does not possess a computer or have Internet access, alternate  
33 means of communication, including facsimile or telephone, shall  
34 be made available for a licensee to obtain a verification number  
35 in order to comply with this section.

36 (B) For every verification number request received pursuant to  
37 this section, the department shall determine whether the intended  
38 recipient is on the centralized list of firearms dealers pursuant to  
39 this section, or the centralized list of exempted federal firearms  
40 licensees pursuant to subdivision (a) of Section 12083, or the

1 centralized list of firearms manufacturers pursuant to subdivision  
2 (f) of Section 12086. If the shipment involves a short-barreled  
3 rifle, as defined in Section 12020, a short-barreled shotgun, as  
4 defined in Section 12020, a firearm which is not a short-barreled  
5 rifle or short-barreled shotgun, but is regulated pursuant to Section  
6 12020, a firearm which is a destructive device, as defined in  
7 Section 12301, a machinegun, as defined in Section 12200, an  
8 assault weapon, as defined in Section 12276, 12276.1, or 12276.5,  
9 or a .50 BMG rifle, as defined in Section 12278, the department  
10 shall determine that the recipient is licensed pursuant to Section  
11 12095, 12230, 12287, or 12305, as applicable, or is otherwise  
12 authorized to receive the firearm.

13 (C) If the department finds after the reviews specified in  
14 subparagraph (B) that the intended recipient is authorized to receive  
15 the firearm shipment, the department shall issue to the inquiring  
16 party a unique verification number for the intended delivery, sale,  
17 or transfer. One verification number shall be issued for each  
18 delivery, sale, or transfer, which may involve multiple firearms.  
19 In addition to the unique verification number, the department may  
20 provide to the inquiring party information necessary for  
21 determining the eligibility of the intended recipient to receive the  
22 firearm. The person intending to deliver, sell, or transfer the firearm  
23 shall provide the unique verification number to the recipient along  
24 with the firearm upon delivery, in a manner to be determined by  
25 the department.

26 (D) If the department finds after the reviews specified in  
27 subparagraph (B) that the intended recipient is not authorized to  
28 receive the firearm shipment, the department shall notify the  
29 inquiring party that the intended recipient is ineligible to receive  
30 the shipment.

31 (E) The department shall prescribe the manner in which the  
32 verification numbers may be requested via the Internet, or by  
33 alternate means of communication, such as by facsimile or  
34 telephone, including all required enrollment information and  
35 procedures.

36 (2) (A) On or after January 1, 1998, within 60 days of bringing  
37 a handgun into this state, a personal handgun importer shall do  
38 one of the following:

39 (i) Forward by prepaid mail or deliver in person to the  
40 Department of Justice, a report prescribed by the department

1 including information concerning that individual and a description  
2 of the firearm in question.

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

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

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

9 (B) If the personal handgun importer sells or transfers the  
10 handgun pursuant to subdivision (d) of Section 12072 and the sale  
11 or transfer cannot be completed by the dealer to the purchaser or  
12 transferee, and the firearm can be returned to the personal handgun  
13 importer, the personal handgun importer shall have complied with  
14 the provisions of this paragraph.

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

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

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

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

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

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

37 (IV) Make persons subject to the provisions of this paragraph  
38 aware of the fact that reports referred to in clause (i) of  
39 subparagraph (A) may be completed at either the licensed premises  
40 of dealers licensed pursuant to Section 12071 or at law enforcement

1 agencies, that it is advisable to do so for the sake of accuracy and  
2 completeness of the reports, that prior to transporting a handgun  
3 to a law enforcement agency in order to comply with subparagraph  
4 (A), the person should give prior notice to the law enforcement  
5 agency that he or she is doing so, and that in any event, the handgun  
6 should be transported unloaded and in a locked container.

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

12 (3) Where a person who is licensed as a collector pursuant to  
13 Chapter 44 (commencing with Section 921) of Title 18 of the  
14 United States Code and the regulations issued pursuant thereto,  
15 whose licensed premises are within this state, acquires a handgun  
16 that is a curio or relic, as defined in Section 478.11 of Title 27 of  
17 the Code of Federal Regulations, outside of this state, takes actual  
18 possession of that firearm outside of this state pursuant to the  
19 provisions of subsection (j) of Section 923 of Title 18 of the United  
20 States Code, as amended by Public Law 104-208, and transports  
21 that firearm into this state, within five days of that licensed  
22 collector transporting that firearm into this state, he or she shall  
23 report to the department in a format prescribed by the department  
24 his or her acquisition of that firearm.

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

30 (B) Paragraphs (2) and (3) shall not apply to a person who  
31 reports his or her ownership of a handgun after the applicable grace  
32 period specified in paragraph (2) or (3) expires if evidence of that  
33 violation arises only as the result of the person submitting the  
34 report described in paragraph (2) or (3).

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

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

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

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

5 (C) If the defendant has a prior conviction of violating any  
6 offense specified in subdivision (b) of Section 12021.1 or of a  
7 violation of Section 12020, 12220, or 12520, or of former Section  
8 12560.

9 (D) If the defendant is in a prohibited class described in Section  
10 12021 or 12021.1 of this code or Section 8100 or 8103 of the  
11 Welfare and Institutions Code.

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

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

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

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

23 (B) A violation of paragraph (3) of subdivision (a) involving  
24 the sale, loan, or transfer of a handgun to a minor.

25 (C) A violation of subdivision (b) involving the delivery of a  
26 handgun.

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

30 (E) A violation of subdivision (d) involving a handgun.

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

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

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

38 (B) The firearm transferred in violation of paragraph (2) of  
39 subdivision (a) or subdivision (b) is used in the subsequent

1 commission of a felony for which a conviction is obtained and the  
2 prescribed sentence is imposed.

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

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

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

9 (D) For purposes of this paragraph each application to purchase  
10 a handgun in violation of paragraph (9) of subdivision (a) shall be  
11 deemed a separate offense.

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

13 12078. (a) (1) The waiting periods described in Sections 12071  
14 and 12072 shall not apply to the deliveries, transfers, or sales of  
15 firearms made to persons properly identified as full-time paid peace  
16 officers as defined in Chapter 4.5 (commencing with Section 830)  
17 of Title 3 of Part 2, provided that the peace officers are authorized  
18 by their employer to carry firearms while in the performance of  
19 their duties. Proper identification is defined as verifiable written  
20 certification from the head of the agency by which the purchaser  
21 or transferee is employed, identifying the purchaser or transferee  
22 as a peace officer who is authorized to carry firearms while in the  
23 performance of his or her duties, and authorizing the purchase or  
24 transfer. The certification shall be delivered to the dealer at the  
25 time of purchase or transfer and the purchaser or transferee shall  
26 identify himself or herself as the person authorized in the  
27 certification. The dealer shall keep the certification with the record  
28 of sale. On the date that the delivery, sale, or transfer is made, the  
29 dealer delivering the firearm shall transmit to the Department of  
30 Justice an electronic or telephonic report of the transaction as is  
31 indicated in subdivision (b) or (c) of Section 12077.

32 (2) Subdivision (b) of Section 12801 and the preceding  
33 provisions of this article do not apply to deliveries, transfers, or  
34 sales of firearms made to authorized law enforcement  
35 representatives of cities, counties, cities and counties, or state or  
36 federal governments for exclusive use by those governmental  
37 agencies if, prior to the delivery, transfer, or sale of these firearms,  
38 written authorization from the head of the agency authorizing the  
39 transaction is presented to the person from whom the purchase,  
40 delivery, or transfer is being made. Proper written authorization

1 is defined as verifiable written certification from the head of the  
2 agency by which the purchaser or transferee is employed,  
3 identifying the employee as an individual authorized to conduct  
4 the transaction, and authorizing the transaction for the exclusive  
5 use of the agency by which he or she is employed. Within 10 days  
6 of the date a handgun is acquired by the agency, a record of the  
7 same shall be entered as an institutional weapon into the Automated  
8 Firearms System (AFS) via the California Law Enforcement  
9 Telecommunications System (CLETS) by the law enforcement or  
10 state agency. Those agencies without access to AFS shall arrange  
11 with the sheriff of the county in which the agency is located to  
12 input this information via this system.

13 (3) Subdivision (b) of Section 12801 and the preceding  
14 provisions of this article do not apply to the loan of a firearm made  
15 by an authorized law enforcement representative of a city, county,  
16 or city and county, or the state or federal government to a peace  
17 officer employed by that agency and authorized to carry a firearm  
18 for the carrying and use of that firearm by that peace officer in the  
19 course and scope of his or her duties.

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

35 (5) Subdivision (b) of Section 12801 and the preceding  
36 provisions of this article do not apply to the delivery, sale, or  
37 transfer of a firearm by a law enforcement agency to a retiring  
38 peace officer who is authorized to carry a firearm pursuant to  
39 Section 12027.1. Within 10 days of the date that a handgun is sold,  
40 delivered, or transferred to that retiring peace officer, the name of

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

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

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

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

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

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

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

33 (E) Prior to delivery, the entity receiving the firearm submits a  
34 written statement to the law enforcement representative stating  
35 that the firearm will not be restored to operating condition, and  
36 will either remain with that entity, or if subsequently disposed of,  
37 will be transferred in accordance with the applicable provisions  
38 of this article and, if applicable, Section 12801.

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

1 entity delivering the firearm, and the make, model, serial number,  
2 and other identifying characteristics of the firearm and the name  
3 of the person authorized by the entity to take possession of the  
4 firearm shall be reported to the department in a manner prescribed  
5 by the department.

6 (G) In the event of a change in the status of the designated  
7 representative, the entity shall notify the department of a new  
8 representative within 30 days.

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

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

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

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

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

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

1 (F) 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 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,  
5 and subdivision (b) of Section 12801 shall not apply to deliveries,  
6 sales, or transfers of firearms between or to importers and  
7 manufacturers of firearms licensed to engage in that business  
8 pursuant to Chapter 44 (commencing with Section 921) of Title  
9 18 of the United States Code and the regulations issued pursuant  
10 thereto.

11 (2) Subdivision (b) of Section 12801 shall not apply to the  
12 delivery, sale, or transfer of a handgun to a person licensed pursuant  
13 to Section 12071, where the licensee is receiving the handgun in  
14 the course and scope of his or her activities as a person licensed  
15 pursuant to Section 12071.

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

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

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

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

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

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

39 (A) Parent and child.

40 (B) Grandparent and grandchild.

(d) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration and, when the firearm is a handgun, commencing January 1, 2003, the individual being loaned the 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) *and paragraph (1) of subdivision (f)* 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)~~

(2) 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

1 involves the loan or return of firearms used solely as props in  
2 television, film, or theatrical productions.

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

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

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

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

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

1 Justice an electronic or telephonic report of the same as is indicated  
2 in subdivision (c) of Section 12077.

3 (h) Subdivision (d) of Section 12072 and subdivision (b) of  
4 Section 12801 shall not apply to the loan of a firearm to a person  
5 18 years of age or older for the purposes of shooting at targets if  
6 the loan occurs on the premises of a target facility that holds a  
7 business or regulatory license or on the premises of any club or  
8 organization organized for the purposes of practicing shooting at  
9 targets upon established ranges, whether public or private, if the  
10 firearm is at all times kept within the premises of the target range  
11 or on the premises of the club or organization.

12 (i) (1) Subdivision (d) of Section 12072 shall not apply to a  
13 person who takes title or possession of a firearm that is not a  
14 handgun by operation of law if the person is not prohibited by state  
15 or federal law from possessing, receiving, owning, or purchasing  
16 a firearm.

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

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

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

36 (i) Within 30 days of taking possession, forward by prepaid  
37 mail or deliver in person to the department, a report of information  
38 concerning the individual taking possession of the firearm, how  
39 title or possession was obtained and from whom, and a description  
40 of the firearm in question. The reports that individuals complete

1 pursuant to this paragraph shall be provided to them by the  
2 department.

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

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

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

34 (3) Subdivision (d) of Section 12072 shall not apply to a person  
35 who takes possession of a firearm by operation of law in a  
36 representative capacity who subsequently transfers ownership of  
37 the firearm to himself or herself in his or her individual capacity.  
38 In the case of a handgun, the individual shall obtain a handgun  
39 safety certificate prior to transferring ownership to himself or  
40 herself, or taking possession of a handgun in an individual capacity.

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

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

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

(2) The delivery, sale, or transfer of unloaded firearms by dealers 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.

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

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

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

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or 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 handgun or who moves out of this state with his or her handgun 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 and subdivision (b) of Section 12801 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 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) of Section 12072 shall not apply to the delivery, sale, or transfer of a firearm regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), Chapter 2.3 (commencing with Section 12275),

1 or Chapter 2.5 (commencing with Section 12301), if the delivery,  
2 sale, or transfer of that firearm is conducted in accordance with  
3 the applicable provisions of Section 12020, Chapter 2 (commencing  
4 with Section 12200), Chapter 2.3 (commencing with Section  
5 12275), or Chapter 2.5 (commencing with Section 12301).

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

11 (2) Paragraph (3) of subdivision (a) of Section 12072,  
12 subdivision (d) of Section 12072, and subdivision (b) of Section  
13 12801 shall not apply to the loan of a handgun to a minor by a  
14 person who is not the parent or legal guardian of the minor if all  
15 of the following circumstances exist:

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

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

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

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

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

38 (A) The minor is being loaned the firearm for the purposes of  
39 engaging in a lawful, recreational sport, including, but not limited  
40 to, competitive shooting, or agricultural, ranching, or hunting

1 activity, or a motion picture, television, or video production, or  
2 entertainment or theatrical event, the nature of which involves the  
3 use of a firearm.

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

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

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

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

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

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

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

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

38 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of  
39 Section 12801 shall not apply to the infrequent loan of an unloaded  
40 firearm by a person who is neither a dealer as defined in Section

12071 nor a federal firearms licensee pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, to a person 18 years of age or older for use solely as a prop in a motion picture, television, video, 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 (commencing with Section 921) 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 firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

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

(t) (1) The waiting periods described in Sections 12071 and 12072, ~~and the requirements of paragraph (1) of subdivision (f) of Section 12072,~~ shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. 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 (d) and paragraph (1) of subdivision (f) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(u) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (1) Possess a valid federal firearms license pursuant to Chapter  
37 44 (commencing with Section 921) of Title 18 of the United States  
38 Code as a dealer, pawnbroker, importer, or manufacturer of  
39 firearms.

1 (2) Possess a current, valid certificate of eligibility pursuant to  
2 Section 12071.

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

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

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

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

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

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

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

1 (1) Requests from local, state, and federal law enforcement  
2 agencies and the duly constituted city, county, and city and county  
3 licensing authorities.

4 (2) When the information is requested by a person licensed  
5 pursuant to Chapter 44 (commencing with Section 921) of Title  
6 18 of the United States Code for determining the validity of the  
7 license for firearm shipments.

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

17 (1) Federal records referred to in subdivision (a) of Section  
18 478.125 of Title 27 of the Code of Federal Regulations and the  
19 bound book containing the same information referred to in Section  
20 478.124a and subdivision (e) of Section 478.125 of Title 27 of the  
21 Code of Federal Regulations.

22 (2) Verification numbers issued pursuant to subdivision (f) of  
23 Section 12072.

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

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

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