

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

SENATE BILL

No. 175

Introduced by Senator Aanestad

February 14, 2009

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 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 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~~ *apply to* any of the
8 following:
9 (1) The sale, lease, or transfer of any firearm by a person acting
10 pursuant to operation of law, a court order, or pursuant to the
11 Enforcement of Judgments Law (Title 9 (commencing with Section
12 680.010) of Part 2 of the Code of Civil Procedure), or by a person
13 who liquidates a personal firearm collection to satisfy a court
14 judgment.
15 (2) A person acting pursuant to subdivision (e) of Section
16 186.22a or subdivision (c) of Section 12028.
17 (3) The sale, lease, or transfer of a firearm by a person who
18 obtains title to the firearm by intestate succession or by bequest
19 or as a surviving spouse pursuant to Chapter 1 (commencing with
20 Section 13500) of Part 2 of Division 8 of the Probate Code,
21 provided the person disposes of the firearm within 60 days of
22 receipt of the firearm.
23 (4) The infrequent sale, lease, or transfer of firearms.
24 (5) The sale, lease, or transfer of used firearms other than
25 handguns, at gun shows or events, as specified in Section 12071,
26 by a person other than a licensee or dealer, provided the person
27 has a valid federal firearms license and a current certificate of
28 eligibility issued by the Department of Justice, as specified in
29 Section 12071, and provided all the sales, leases, or transfers fully
30 comply with subdivision (d) of Section 12072. However, the person
31 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) Loans or returns of firearms to or from a gunsmith for
40 service or repair.

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

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

5 (B) For firearms other than handguns, occasional and without
6 regularity.

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

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

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

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

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

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

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

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

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

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

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

33 12072. (a) (1) No person, corporation, or firm shall knowingly
34 supply, deliver, sell, or give possession or control of a firearm to
35 any person within any of the classes prohibited by Section 12021
36 or 12021.1.

37 (2) No person, corporation, or dealer shall sell, supply, deliver,
38 or give possession or control of a firearm to any person whom he
39 or she has cause to believe to be within any of the classes

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

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

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

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

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

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

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

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

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

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

27 (ii) The requirements of any exemption to the provisions of
28 subdivision (d).

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

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

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

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

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

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

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

2 (i) Any law enforcement agency.

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

5 (iii) Any state or local correctional facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (6) No handgun shall be delivered whenever the dealer is
23 notified by the Department of Justice that within the preceding
24 30-day period the purchaser has made another application to
25 purchase a handgun and that the previous application to purchase
26 involved none of the entities specified in subparagraph (B) of
27 paragraph (9) of subdivision (a).

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

32 (e) No person may commit an act of collusion relating to Article
33 8 (commencing with Section 12800) of Chapter 6. For purposes
34 of this section and Section 12071, collusion may be proven by any
35 one of the following factors:

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

38 (2) Knowingly grading the examination falsely.

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

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

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

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

8 (7) Allowing others to give unauthorized assistance during the
9 examination.

10 (8) Reference to unauthorized materials during the examination
11 and cheating by the applicant.

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

15 (f) (1) (A) Commencing July 1, 2008, a person who is licensed
16 pursuant to Chapter 44 (commencing with Section 921) of Title
17 18 of the United States Code may not deliver, sell, or transfer a
18 firearm to a person in California who is licensed pursuant to
19 Chapter 44 (commencing with Section 921) of Title 18 of the
20 United States Code unless, prior to delivery, the person intending
21 to deliver, sell, or transfer the firearm obtains a verification number
22 via the Internet for the intended delivery, sale, or transfer, from
23 the department. If Internet service is unavailable to either the
24 department or the licensee due to a technical or other malfunction,
25 or a federal firearms licensee who is located outside of California
26 does not possess a computer or have Internet access, alternate
27 means of communication, including facsimile or telephone, shall
28 be made available for a licensee to obtain a verification number
29 in order to comply with this section.

30 (B) For every verification number request received pursuant to
31 this section, the department shall determine whether the intended
32 recipient is on the centralized list of firearms dealers pursuant to
33 this section, or the centralized list of exempted federal firearms
34 licensees pursuant to subdivision (a) of Section 12083, or the
35 centralized list of firearms manufacturers pursuant to subdivision
36 (f) of Section 12086. ~~If the shipment involves a short-barreled~~
37 ~~rifle, as defined in Section 12020, a short-barreled shotgun, as~~
38 ~~defined in Section 12020, a firearm which is not a short-barreled~~
39 ~~rifle or short-barreled shotgun, but is regulated pursuant to Section~~
40 ~~12020, a firearm which is a destructive device, as defined in~~

1 ~~Section 12301, a machinegun, as defined in Section 12200, an~~
2 ~~assault weapon, as defined in Section 12276, 12276.1, or 12276.5;~~
3 ~~or a .50 BMG rifle, as defined in Section 12278, the department~~
4 ~~shall determine that the recipient is licensed pursuant to Section~~
5 ~~12095, 12230, 12287, or 12305, as applicable, or is otherwise~~
6 ~~authorized to receive the firearm.~~

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

20 (D) If the department finds after the reviews specified in
21 subparagraph (B) that the intended recipient is not authorized to
22 receive the firearm shipment, the department shall notify the
23 inquiring party that the intended recipient is ineligible to receive
24 the shipment.

25 (E) The department shall prescribe the manner in which the
26 verification numbers may be requested via the Internet, or by
27 alternate means of communication, such as by facsimile or
28 telephone, including all required enrollment information and
29 procedures.

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

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

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

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

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

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

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

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

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

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

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

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

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a handgun to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement

1 agency that he or she is doing so, and that in any event, the handgun
2 should be transported unloaded and in a locked container.

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

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

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

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

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

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

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

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

1 (C) If the defendant has a prior conviction of violating any
2 offense specified in subdivision (b) of Section 12021.1 or of a
3 violation of Section 12020, 12220, or 12520, or of former Section
4 12560.

5 (D) If the defendant is in a prohibited class described in Section
6 12021 or 12021.1 of this code or Section 8100 or 8103 of the
7 Welfare and Institutions Code.

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

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

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

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

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

21 (C) A violation of subdivision (b) involving the delivery of a
22 handgun.

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

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

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

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

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

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

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

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

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

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

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

9 12078. (a) (1) The waiting periods described in Sections 12071
10 and 12072 shall not apply to the deliveries, transfers, or sales of
11 firearms made to persons properly identified as full-time paid peace
12 officers as defined in Chapter 4.5 (commencing with Section 830)
13 of Title 3 of Part 2, provided that the peace officers are authorized
14 by their employer to carry firearms while in the performance of
15 their duties. Proper identification is defined as verifiable written
16 certification from the head of the agency by which the purchaser
17 or transferee is employed, identifying the purchaser or transferee
18 as a peace officer who is authorized to carry firearms while in the
19 performance of his or her duties, and authorizing the purchase or
20 transfer. The certification shall be delivered to the dealer at the
21 time of purchase or transfer and the purchaser or transferee shall
22 identify himself or herself as the person authorized in the
23 certification. The dealer shall keep the certification with the record
24 of sale. On the date that the delivery, sale, or transfer is made, the
25 dealer delivering the firearm shall transmit to the Department of
26 Justice an electronic or telephonic report of the transaction as is
27 indicated in subdivision (b) or (c) of Section 12077.

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

1 use of the agency by which he or she is employed. Within 10 days
2 of the date a handgun is acquired by the agency, a record of the
3 same shall be entered as an institutional weapon into the Automated
4 Firearms System (AFS) via the California Law Enforcement
5 Telecommunications System (CLETS) by the law enforcement or
6 state agency. Those agencies without access to AFS shall arrange
7 with the sheriff of the county in which the agency is located to
8 input this information via this system.

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

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

31 (5) Subdivision (b) of Section 12801 and the preceding
32 provisions of this article do not apply to the delivery, sale, or
33 transfer of a firearm by a law enforcement agency to a retiring
34 peace officer who is authorized to carry a firearm pursuant to
35 Section 12027.1. Within 10 days of the date that a handgun is sold,
36 delivered, or transferred to that retiring peace officer, the name of
37 the officer and the make, model, serial number, and other
38 identifying characteristics of the firearm being sold, transferred,
39 or delivered shall be entered into the Automated Firearms System
40 (AFS) via the California Law Enforcement Telecommunications

1 System (CLETS) by the law enforcement or state agency that sold,
2 transferred, or delivered the firearm. Those agencies without access
3 to AFS shall arrange with the sheriff of the county in which the
4 agency is located to input this information via this system.

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

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

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

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

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

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

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

35 (F) Within 10 days of the date that the firearm is sold, loaned,
36 delivered, or transferred to that entity, the name of the government
37 entity delivering the firearm, and the make, model, serial number,
38 and other identifying characteristics of the firearm and the name
39 of the person authorized by the entity to take possession of the

1 firearm shall be reported to the department in a manner prescribed
2 by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Parent and child.

(B) Grandparent and grandchild.

(d) (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

1 exceed 30 days in duration and, when the firearm is a handgun,
2 commencing January 1, 2003, the individual being loaned the
3 handgun has a valid handgun safety certificate.

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

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

9 (B) The loan is for a lawful purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (C) Where the person receiving title or possession of the
35 handgun is a person described in subparagraph (I) of paragraph
36 (2) of subdivision (u), on the date that the person is delivered the
37 firearm, the name and other information concerning the person
38 taking possession of the firearm, how title or possession of the
39 firearm was obtained and from whom, and a description of the
40 firearm by make, model, serial number, and other identifying

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

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

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

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

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

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

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

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

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

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

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

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

30 (m) Subdivision (d) of Section 12072 and subdivision (b) of
31 Section 12801 shall not apply to the delivery, sale, or transfer of
32 unloaded firearms to a wholesaler as merchandise in the
33 wholesaler's business by manufacturers or importers licensed to
34 engage in that business pursuant to Chapter 44 (commencing with
35 Section 921) of Title 18 of the United States Code and the
36 regulations issued pursuant thereto, or by another wholesaler, if
37 the delivery, sale, or transfer is made in accordance with Chapter
38 44 (commencing with Section 921) of Title 18 of the United States
39 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), 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), 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) (1) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the infrequent loan of an unloaded 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.

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

4 (t) (1) The waiting periods described in Sections 12071 and
5 12072 shall not apply to the sale, delivery, loan, or transfer of a
6 firearm that is a curio or relic, as defined in Section 478.11 of Title
7 27 of the Code of Federal Regulations, or its successor, by a dealer
8 to a person who is licensed as a collector pursuant to Chapter 44
9 (commencing with Section 921) of Title 18 of the United States
10 Code and the regulations issued pursuant thereto who has a current
11 certificate of eligibility issued to him or her by the Department of
12 Justice pursuant to Section 12071. On the date that the delivery,
13 sale, or transfer is made, the dealer delivering the firearm shall
14 transmit to the Department of Justice an electronic or telephonic
15 report of the transaction as is indicated in subdivision (b) or (c) of
16 Section 12077.

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

23 (u) As used in this section:

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

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

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

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

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

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

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

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

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

5 (H) Firearms passing to a surviving spouse pursuant to Chapter
6 1 (commencing with Section 13500) of Part 2 of Division 8 of the
7 Probate Code.

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

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

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

17 12083. (a) Commencing January 1, 2008, the Department of
18 Justice shall keep a centralized list of persons who identify
19 themselves as being licensed pursuant to Chapter 44 (commencing
20 with Section 921) of Title 18 of the United States Code as a dealer,
21 pawnbroker, importer or manufacturer of firearms whose licensed
22 premises are within this state and who declare to the department
23 an exemption from the firearms dealer licensing requirements of
24 Section 12070. The list shall be known as the centralized list of
25 exempted federal firearms licensees. To qualify for placement on
26 the centralized list, an applicant shall do all of the following:

27 (1) Possess a valid federal firearms license pursuant to Chapter
28 44 (commencing with Section 921) of Title 18 of the United States
29 Code as a dealer, pawnbroker, importer, or manufacturer of
30 firearms.

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

33 (3) Maintain with the department a signed declaration
34 enumerating the applicant's statutory exemptions from licensing
35 requirements of Section 12070. Any person furnishing a fictitious
36 name, knowingly furnishing any incorrect information, or
37 knowingly omitting any information for the declaration shall be
38 guilty of a misdemeanor.

39 (b) Commencing January 1, 2008, the department shall assess
40 an annual fee of one hundred fifteen dollars (\$115) to cover its

1 costs of maintaining the centralized list of exempted federal
2 firearms licensees prescribed by subdivision (a), conducting
3 inspections in accordance with this section, and for the cost of
4 maintaining the firearm shipment verification number system
5 described in subdivision (f) of Section 12072. The department may
6 increase the fee at a rate not to exceed the increase in the California
7 Consumer Price Index as compiled and reported by the Department
8 of Industrial Relations. The fees collected shall be deposited in
9 the Dealers' Record of Sale Special Account.

10 (c) (1) Any person licensed pursuant to Chapter 44
11 (commencing with Section 921) of Title 18 of the United States
12 Code as a dealer, pawnbroker, importer, or manufacturer of
13 firearms whose licensed premises are within this state shall not
14 import or receive firearms from any source unless listed on the
15 centralized list of firearms dealers pursuant to Section 12071, or
16 the centralized list of exempted federal firearms licensees pursuant
17 to subdivision (a), or the centralized list of firearms manufacturers
18 pursuant to subdivision (f) of Section 12086.

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

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

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

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

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

32 (2) When the information is requested by a person licensed
33 pursuant to Chapter 44 (commencing with Section 921) of Title
34 18 of the United States Code for determining the validity of the
35 license for firearm shipments.

36 (f) The department may conduct onsite inspections at the
37 business premises of a person on the centralized list described in
38 subdivision (a) to determine compliance with firearms laws
39 pursuant to Article 4 (commencing with Section 12070) of Chapter
40 1 of Title 2 of Part 4 of the Penal Code. The department shall work

1 in consultation with the Bureau of Alcohol, Tobacco, Firearms,
2 and Explosives to ensure that licensees are not subject to
3 duplicative inspections. During the inspection the following firearm
4 records shall be made available for review:

5 (1) Federal records referred to in subdivision (a) of Section
6 478.125 of Title 27 of the Code of Federal Regulations and the
7 bound book containing the same information referred to in Section
8 478.124a and subdivision (e) of Section 478.125 of Title 27 of the
9 Code of Federal Regulations.

10 (2) Verification numbers issued pursuant to subdivision (f) of
11 Section 12072.

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

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

16 (h) The department may adopt regulations as necessary to carry
17 out the provisions of this section, subdivision (f) of Section 12072,
18 and Section 12071. The department shall work in consultation with
19 the Bureau of Alcohol, Tobacco, Firearms, and Explosives to
20 ensure that state regulations are not duplicative of federal
21 regulations.