

AMENDED IN ASSEMBLY JUNE 16, 2009

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 *firearms* transactions.

Existing law requires the Department of Justice to maintain a centralized list of federal firearms licensees, as specified. Existing law authorizes the department to assess an annual fee on those licensees listed on that centralized list.

This bill would remove persons identifying themselves as federally-licensed pawnbrokers from those required to be included in the centralized list, and would exempt persons possessing specified permits who are on the centralized list from the fee assessment.

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 apply to 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.

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

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

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

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

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

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

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

32 (8) Deliveries and transfers of firearms made pursuant to Section
33 12028, 12028.5, or 12030.

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

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

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

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

21 (13) Sales, deliveries, or transfers of firearms by persons who
22 reside outside this state to persons licensed pursuant to Section
23 12071, if the sale, delivery, or transfer is in accordance with
24 Chapter 44 (commencing with Section 921) of Title 18 of the
25 United States Code, and the regulations issued pursuant thereto.

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

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

36 (16) The loan of an unloaded firearm or the loan of a firearm
37 loaded with blank cartridges for use solely as a prop for a motion
38 picture, television, or video production or entertainment or
39 theatrical event.

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

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

(19) The delivery, sale, return, 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) by a person licensed pursuant to Section 12095, 12230, 12287, or 12305 if the delivery, sale, return, 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).

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (ii) The requirements of any exemption to the provisions of
6 subdivision (d).

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

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

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

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

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

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

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

20 (i) Any law enforcement agency.

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

23 (iii) Any state or local correctional facility.

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

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

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

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

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

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

1 United States Code and the regulations issued pursuant thereto
2 and who has a current certificate of eligibility issued to him or her
3 by the Department of Justice pursuant to Section 12071.

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

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

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

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

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

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

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

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

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

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

37 (B) Commencing January 1, 2003, no handgun shall be delivered
38 unless the purchaser, transferee, or person being loaned the
39 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 of this section and Section 12071, collusion may be proven by any one of the following factors:

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

(2) Knowingly grading the examination falsely.

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

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

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

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

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

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

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

(f) (1) (A) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not deliver, sell, or transfer a firearm to a person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from

1 the department. If Internet service is unavailable to either the
2 department or the licensee due to a technical or other malfunction,
3 or a federal firearms licensee who is located outside of California
4 does not possess a computer or have Internet access, alternate
5 means of communication, including facsimile or telephone, shall
6 be made available for a licensee to obtain a verification number
7 in order to comply with this section.

8 (B) For every verification number request received pursuant to
9 this section, the department shall determine whether the intended
10 recipient is on the centralized list of firearms dealers pursuant to
11 this section, or the centralized list of exempted federal firearms
12 licensees pursuant to subdivision (a) of Section 12083, or the
13 centralized list of firearms manufacturers pursuant to subdivision
14 (f) of Section 12086.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (IV) Make persons subject to the provisions of this paragraph
40 aware of the fact that reports referred to in clause (i) of

1 subparagraph (A) may be completed at either the licensed premises
2 of dealers licensed pursuant to Section 12071 or at law enforcement
3 agencies, that it is advisable to do so for the sake of accuracy and
4 completeness of the reports, that prior to transporting a handgun
5 to a law enforcement agency in order to comply with subparagraph
6 (A), the person should give prior notice to the law enforcement
7 agency that he or she is doing so, and that in any event, the handgun
8 should be transported unloaded and in a locked container.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) A violation of subdivision (e).

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

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

3 (B) The firearm transferred in violation of paragraph (2) of
4 subdivision (a) or subdivision (b) is used in the subsequent
5 commission of a felony for which a conviction is obtained and the
6 prescribed sentence is imposed.

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

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

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

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

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

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

36 (2) Subdivision (b) of Section 12801 and the preceding
37 provisions of this article do not apply to deliveries, transfers, or
38 sales of firearms made to authorized law enforcement
39 representatives of cities, counties, cities and counties, or state or
40 federal governments for exclusive use by those governmental

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

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

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

39 (5) Subdivision (b) of Section 12801 and the preceding
 40 provisions of this article do not apply to the delivery, sale, or

1 transfer of a firearm by a law enforcement agency to a retiring
2 peace officer who is authorized to carry a firearm pursuant to
3 Section 12027.1. Within 10 days of the date that a handgun is sold,
4 delivered, or transferred to that retiring peace officer, the name of
5 the officer and the make, model, serial number, and other
6 identifying characteristics of the firearm being sold, transferred,
7 or delivered shall be entered into the Automated Firearms System
8 (AFS) via the California Law Enforcement Telecommunications
9 System (CLETS) by the law enforcement or state agency that sold,
10 transferred, or delivered the firearm. Those agencies without access
11 to AFS shall arrange with the sheriff of the county in which the
12 agency is located to input this information via this system.

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

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

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

31 (B) The firearm prior to delivery is deactivated or rendered
32 inoperable.

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

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

37 (E) Prior to delivery, the entity receiving the firearm submits a
38 written statement to the law enforcement representative stating
39 that the firearm will not be restored to operating condition, and
40 will either remain with that entity, or if subsequently disposed of,

will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

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

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

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

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

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

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

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

(E) If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that public or private historical society, museum, or institutional collection within 30 days of taking possession of that handgun shall forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, that includes information identifying the person representing that public or private historical society, museum, or institutional collection, how title was obtained and from whom, and a description of the firearm in question, along with a copy of the written statement referred to

1 in subparagraph (D). The report forms that are to be completed
2 pursuant to this paragraph shall be provided by the Department of
3 Justice.

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

7 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,
8 and subdivision (b) of Section 12801 shall not apply to deliveries,
9 sales, or transfers of firearms between or to importers and
10 manufacturers of firearms licensed to engage in that business
11 pursuant to Chapter 44 (commencing with Section 921) of Title
12 18 of the United States Code and the regulations issued pursuant
13 thereto.

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

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

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

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

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

39 (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 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, *or to the delivery of a firearm by a gunsmith to a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for service or repair and the return of the firearm to the gunsmith.*

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

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

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a 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.

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

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

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

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

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

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

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

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

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

39 (j) Subdivision (d) of Section 12072 and subdivision (b) of
40 Section 12801 shall not apply to deliveries, transfers, or returns

1 of firearms made pursuant to Section 12021.3, 12028, 12028.5, or
2 12030.

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

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

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

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

17 (4) The delivery, sale, or transfer of unloaded firearms by one
18 dealer to another dealer if the firearms are intended as merchandise
19 in the receiving dealer's business upon proof of compliance with
20 the requirements of paragraph (1) of subdivision (f) of Section
21 12072.

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

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

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

39 (m) Subdivision (d) of Section 12072 and subdivision (b) of
40 Section 12801 shall not apply to the delivery, sale, or transfer of

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

9 (n) (1) The waiting period described in Section 12071 or 12072
10 shall not apply to the delivery, sale, or transfer of a handgun by a
11 dealer in either of the following situations:

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

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

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

18 (A) If the dealer is receiving the firearm from another dealer,
19 the dealer receiving the firearm shall present proof to the dealer
20 delivering the firearm that he or she is licensed pursuant to Section
21 12071 by complying with paragraph (1) of subdivision (f) of
22 Section 12072.

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

35 (o) Section 12071 and subdivisions (c) and (d) of Section 12072
36 shall not apply to the delivery, sale, or transfer of a firearm
37 regulated pursuant to Section 12020, Chapter 2 (commencing with
38 Section 12200), Chapter 2.3 (commencing with Section 12275),
39 or Chapter 2.5 (commencing with Section 12301), if the delivery,
40 sale, or transfer of that firearm is conducted in accordance with

1 the applicable provisions of Section 12020, Chapter 2 (commencing
2 with Section 12200), Chapter 2.3 (commencing with Section
3 12275), or Chapter 2.5 (commencing with Section 12301).

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

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

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

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

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

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

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

36 (A) The minor is being loaned the firearm for the purposes of
37 engaging in a lawful, recreational sport, including, but not limited
38 to, competitive shooting, or agricultural, ranching, or hunting
39 activity, or a motion picture, television, or video production, or

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

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

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

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

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

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

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

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

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

37 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of
38 Section 12801 shall not apply to the infrequent loan of an unloaded
39 firearm by a person who is neither a dealer as defined in Section
40 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 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~~ *importer*, or manufacturer of firearms whose
31 licensed premises are within this state and who declare to the
32 department an exemption from the firearms dealer licensing
33 requirements of Section 12070. The list shall be known as the
34 centralized list of exempted federal firearms licensees. To qualify
35 for placement on the centralized list, an applicant shall do all of
36 the following:

37 (1) Possess a valid federal firearms license pursuant to Chapter
38 44 (commencing with Section 921) of Title 18 of the United States
39 Code as a dealer, ~~pawnbroker~~, *importer*, or manufacturer of
40 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. *A person who is not*
16 *licensed pursuant to Section 12071, who has been issued a permit*
17 *pursuant to Section 12095, 12287, 12230, or 12305, and who is*
18 *placed on the centralized list of exempted federal firearms licensees*
19 *shall not be charged the fee.* The department may increase the fee
20 at a rate not to exceed the increase in the California Consumer
21 Price Index as compiled and reported by the Department of
22 Industrial Relations. The fees collected shall be deposited in the
23 Dealers' Record of Sale Special Account.

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

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

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

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

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

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

6 (2) When the information is requested by a person licensed
7 pursuant to Chapter 44 (commencing with Section 921) of Title
8 18 of the United States Code for determining the validity of the
9 license for firearm shipments.

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

19 (1) Federal records referred to in subdivision (a) of Section
20 478.125 of Title 27 of the Code of Federal Regulations and the
21 bound book containing the same information referred to in Section
22 478.124a and subdivision (e) of Section 478.125 of Title 27 of the
23 Code of Federal Regulations.

24 (2) Verification numbers issued pursuant to subdivision (f) of
25 Section 12072.

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

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

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

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