

AMENDED IN ASSEMBLY JULY 23, 2009
AMENDED IN ASSEMBLY JUNE 30, 2009
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, *and would exempt from these provisions, the delivery, sale, return, or transfer of certain firearms by persons holding certain permits, as specified.*

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 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~~ *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.

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

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

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

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

23 The Department of Justice shall adopt regulations to administer
24 this program and shall recover the full costs of administration from
25 fees assessed applicants.

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

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

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

38 (8) Deliveries and transfers of firearms made pursuant to Section
39 12028, 12028.5, or 12030.

1 (9) The loan of a firearm for the purposes of shooting at targets,
2 if the loan occurs on the premises of a target facility which holds
3 a business or regulatory license or on the premises of any club or
4 organization organized for the purposes of practicing shooting at
5 targets upon established ranges, whether public or private, if the
6 firearm is at all times kept within the premises of the target range
7 or on the premises of the club or organization.

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

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

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

28 (13) Sales, deliveries, or transfers of firearms by persons who
29 reside outside this state to persons licensed pursuant to Section
30 12071, if the sale, delivery, or transfer is in accordance with
31 Chapter 44 (commencing with Section 921) of Title 18 of the
32 United States Code, and the regulations issued pursuant thereto.

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

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

4 (16) The loan of an unloaded firearm or the loan of a firearm
5 loaded with blank cartridges for use solely as a prop for a motion
6 picture, television, or video production or entertainment or
7 theatrical event.

8 (17) The delivery of an unloaded firearm that is a curio or relic,
9 as defined in Section 478.11 of Title 27 of the Code of Federal
10 Regulations, by a person licensed as a collector pursuant to Chapter
11 44 (commencing with Section 921) of Title 18 of the United States
12 Code and the regulations issued pursuant thereto with a current
13 certificate of eligibility issued pursuant to Section 12071 to a
14 dealer.

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

17 (19) *The delivery, sale, return, or transfer of a firearm regulated*
18 *pursuant to Article 6 (commencing with Section 12095) of Chapter*
19 *1, Chapter 2 (commencing with Section 12200), Chapter 2.3*
20 *(commencing with Section 12275), or Chapter 2.5 (commencing*
21 *with Section 12301) by a person who holds a permit issued*
22 *pursuant to Section 12095, 12230, 12287, or 12305, if the delivery,*
23 *sale, return, or transfer is conducted in accordance with the terms*
24 *and conditions of the permit.*

25 (c) (1) As used in this section, "infrequent" means:

26 (A) For handguns, less than six transactions per calendar year.
27 For this purpose, "transaction" means a single sale, lease, or
28 transfer of any number of handguns.

29 (B) For firearms other than handguns, occasional and without
30 regularity.

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

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

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

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

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

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

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

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

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

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

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

18 12072. (a) (1) No person, corporation, or firm shall knowingly
19 supply, deliver, sell, or give possession or control of a firearm to
20 any person within any of the classes prohibited by Section 12021
21 or 12021.1.

22 (2) No person, corporation, or dealer shall sell, supply, deliver,
23 or give possession or control of a firearm to any person whom he
24 or she has cause to believe to be within any of the classes
25 prohibited by Section 12021 or 12021.1 of this code or Section
26 8100 or 8103 of the Welfare and Institutions Code.

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

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

32 (4) No person, corporation, or dealer shall sell, loan, or transfer
33 a firearm to any person whom he or she knows or has cause to
34 believe is not the actual purchaser or transferee of the firearm, or
35 to any person who is not the person actually being loaned the
36 firearm, if the person, corporation, or dealer has either of the
37 following:

38 (A) Knowledge that the firearm is to be subsequently loaned,
39 sold, or transferred to avoid the provisions of subdivision (c) or
40 (d).

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

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

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

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

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

11 (ii) The requirements of any exemption to the provisions of
12 subdivision (d).

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

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

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

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

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

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

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

26 (i) Any law enforcement agency.

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

29 (iii) Any state or local correctional facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (6) No handgun shall be delivered whenever the dealer is
9 notified by the Department of Justice that within the preceding
10 30-day period the purchaser has made another application to
11 purchase a handgun and that the previous application to purchase
12 involved none of the entities specified in subparagraph (B) of
13 paragraph (9) of subdivision (a).

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

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

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

24 (2) Knowingly grading the examination falsely.

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

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

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

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

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

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

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

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

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

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

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

1 (E) The department shall prescribe the manner in which the
2 verification numbers may be requested via the Internet, or by
3 alternate means of communication, such as by facsimile or
4 telephone, including all required enrollment information and
5 procedures.

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

9 (i) Forward by prepaid mail or deliver in person to the
10 Department of Justice, a report prescribed by the department
11 including information concerning that individual and a description
12 of the firearm in question.

13 (ii) Sell or transfer the firearm in accordance with the provisions
14 of subdivision (d) or in accordance with the provisions of an
15 exemption from subdivision (d).

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

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

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

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

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

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

37 (I) Work in conjunction with the Department of Motor Vehicles
38 to ensure that any person who is subject to this paragraph is advised
39 of the provisions of this paragraph, and provided with blank copies
40 of the report described in clause (i) of subparagraph (A) at the time

1 that person applies for a California driver's license or registers his
2 or her motor vehicle in accordance with the Vehicle Code.

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

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

7 (IV) Make persons subject to the provisions of this paragraph
8 aware of the fact that reports referred to in clause (i) of
9 subparagraph (A) may be completed at either the licensed premises
10 of dealers licensed pursuant to Section 12071 or at law enforcement
11 agencies, that it is advisable to do so for the sake of accuracy and
12 completeness of the reports, that prior to transporting a handgun
13 to a law enforcement agency in order to comply with subparagraph
14 (A), the person should give prior notice to the law enforcement
15 agency that he or she is doing so, and that in any event, the handgun
16 should be transported unloaded and in a locked container.

17 (iii) Any costs incurred by the department to implement this
18 paragraph shall be absorbed by the department within its existing
19 budget and the fees in the Dealers' Record of Sale Special Account
20 allocated for implementation of this subparagraph pursuant to
21 Section 12076.

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

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

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

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

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

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

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

16 (C) If the defendant has a prior conviction of violating any
17 offense specified in subdivision (b) of Section 12021.1 or of a
18 violation of Section 12020, 12220, or 12520, or of former Section
19 12560.

20 (D) If the defendant is in a prohibited class described in Section
21 12021 or 12021.1 of this code or Section 8100 or 8103 of the
22 Welfare and Institutions Code.

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

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

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

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

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

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

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

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

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

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

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

9 (B) The firearm transferred in violation of paragraph (2) of
10 subdivision (a) or subdivision (b) is used in the subsequent
11 commission of a felony for which a conviction is obtained and the
12 prescribed sentence is imposed.

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

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

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

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

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

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

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

3 (2) Subdivision (b) of Section 12801 and the preceding
4 provisions of this article do not apply to deliveries, transfers, or
5 sales of firearms made to authorized law enforcement
6 representatives of cities, counties, cities and counties, or state or
7 federal governments for exclusive use by those governmental
8 agencies if, prior to the delivery, transfer, or sale of these firearms,
9 written authorization from the head of the agency authorizing the
10 transaction is presented to the person from whom the purchase,
11 delivery, or transfer is being made. Proper written authorization
12 is defined as verifiable written certification from the head of the
13 agency by which the purchaser or transferee is employed,
14 identifying the employee as an individual authorized to conduct
15 the transaction, and authorizing the transaction for the exclusive
16 use of the agency by which he or she is employed. Within 10 days
17 of the date a handgun is acquired by the agency, a record of the
18 same shall be entered as an institutional weapon into the Automated
19 Firearms System (AFS) via the California Law Enforcement
20 Telecommunications System (CLETS) by the law enforcement or
21 state agency. Those agencies without access to AFS shall arrange
22 with the sheriff of the county in which the agency is located to
23 input this information via this system.

24 (3) Subdivision (b) of Section 12801 and the preceding
25 provisions of this article do not apply to the loan of a firearm made
26 by an authorized law enforcement representative of a city, county,
27 or city and county, or the state or federal government to a peace
28 officer employed by that agency and authorized to carry a firearm
29 for the carrying and use of that firearm by that peace officer in the
30 course and scope of his or her duties.

31 (4) 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 peace officer
34 pursuant to Section 10334 of the Public Contract Code. Within 10
35 days of the date that a handgun is sold, delivered, or transferred
36 pursuant to Section 10334 of the Public Contract Code to that
37 peace officer, the name of the officer and the make, model, serial
38 number, and other identifying characteristics of the firearm being
39 sold, transferred, or delivered shall be entered into the Automated
40 Firearms System (AFS) via the California Law Enforcement

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

6 (5) Subdivision (b) of Section 12801 and the preceding
7 provisions of this article do not apply to the delivery, sale, or
8 transfer of a firearm by a law enforcement agency to a retiring
9 peace officer who is authorized to carry a firearm pursuant to
10 Section 12027.1. Within 10 days of the date that a handgun is sold,
11 delivered, or transferred to that retiring peace officer, the name of
12 the officer and the make, model, serial number, and other
13 identifying characteristics of the firearm being sold, transferred,
14 or delivered shall be entered into the Automated Firearms System
15 (AFS) via the California Law Enforcement Telecommunications
16 System (CLETS) by the law enforcement or state agency that sold,
17 transferred, or delivered the firearm. Those agencies without access
18 to AFS shall arrange with the sheriff of the county in which the
19 agency is located to input this information via this system.

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

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

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

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

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

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

5 (E) Prior to delivery, the entity receiving the firearm submits a
6 written statement to the law enforcement representative stating
7 that the firearm will not be restored to operating condition, and
8 will either remain with that entity, or if subsequently disposed of,
9 will be transferred in accordance with the applicable provisions
10 of this article and, if applicable, Section 12801.

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

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

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

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

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

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

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

38 (E) If title to a handgun is being transferred to the public or
39 private nonprofit historical society, museum, or institutional
40 collection, then the designated representative of that public or

1 private historical society, museum, or institutional collection within
2 30 days of taking possession of that handgun shall forward by
3 prepaid mail or deliver in person to the Department of Justice, a
4 single report signed by both parties to the transaction, that includes
5 information identifying the person representing that public or
6 private historical society, museum, or institutional collection, how
7 title was obtained and from whom, and a description of the firearm
8 in question, along with a copy of the written statement referred to
9 in subparagraph (D). The report forms that are to be completed
10 pursuant to this paragraph shall be provided by the Department of
11 Justice.

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

15 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,
16 and subdivision (b) of Section 12801 shall not apply to deliveries,
17 sales, or transfers of firearms between or to importers and
18 manufacturers of firearms licensed to engage in that business
19 pursuant to Chapter 44 (commencing with Section 921) of Title
20 18 of the United States Code and the regulations issued pursuant
21 thereto.

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

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

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

37 (A) The person to whom the firearm is transferred shall, within
38 30 days of taking possession of the firearm, forward by prepaid
39 mail or deliver in person to the Department of Justice, a report that
40 includes information concerning the individual taking possession

1 of the firearm, how title was obtained and from whom, and a
2 description of the firearm in question. The report forms that
3 individuals complete pursuant to this paragraph shall be provided
4 to them by the Department of Justice.

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

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

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

10 (A) Parent and child.

11 (B) Grandparent and grandchild.

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

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

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

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

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

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

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

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

31 (e) (1) Section 12071, subdivisions (c) and (d) and paragraph
32 (1) of subdivision (f) of Section 12072, and subdivision (b) of
33 Section 12801 shall not apply to the delivery of a firearm to a
34 gunsmith for service or repair, or to the return of the firearm to its
35 owner by the gunsmith, or to the delivery of a firearm by a
36 gunsmith to a person licensed pursuant to Chapter 44 (commencing
37 with Section 921) of Title 18 of the United States Code for service
38 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.

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

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

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

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

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

1 person presents proof to the agency that he or she is the holder of
2 a handgun safety certificate.

3 (3) Subdivision (d) of Section 12072 shall not apply to a person
4 who takes possession of a firearm by operation of law in a
5 representative capacity who subsequently transfers ownership of
6 the firearm to himself or herself in his or her individual capacity.
7 In the case of a handgun, the individual shall obtain a handgun
8 safety certificate prior to transferring ownership to himself or
9 herself, or taking possession of a handgun in an individual capacity.

10 (j) Subdivision (d) of Section 12072 and subdivision (b) of
11 Section 12801 shall not apply to deliveries, transfers, or returns
12 of firearms made pursuant to Section 12021.3, 12028, 12028.5, or
13 12030.

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

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

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

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

28 (4) The delivery, sale, or transfer of unloaded firearms by one
29 dealer to another dealer if the firearms are intended as merchandise
30 in the receiving dealer's business upon proof of compliance with
31 the requirements of paragraph (1) of subdivision (f) of Section
32 12072.

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

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

1 person at that target facility or that club or organization, if the
2 firearm is at all times kept within the premises of the target range
3 or on the premises of the club or organization.

4 (l) A person who is exempt from subdivision (d) of Section
5 12072 or is otherwise not required by law to report his or her
6 acquisition, ownership, or disposal of a handgun or who moves
7 out of this state with his or her handgun may submit a report of
8 the same to the Department of Justice in a format prescribed by
9 the department.

10 (m) Subdivision (d) of Section 12072 and subdivision (b) of
11 Section 12801 shall not apply to the delivery, sale, or transfer of
12 unloaded firearms to a wholesaler as merchandise in the
13 wholesaler's business by manufacturers or importers licensed to
14 engage in that business pursuant to Chapter 44 (commencing with
15 Section 921) of Title 18 of the United States Code and the
16 regulations issued pursuant thereto, or by another wholesaler, if
17 the delivery, sale, or transfer is made in accordance with Chapter
18 44 (commencing with Section 921) of Title 18 of the United States
19 Code.

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

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

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

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

29 (A) If the dealer is receiving the firearm from another dealer,
30 the dealer receiving the firearm shall present proof to the dealer
31 delivering the firearm that he or she is licensed pursuant to Section
32 12071 by complying with paragraph (1) of subdivision (f) of
33 Section 12072.

34 (B) Whether the dealer is delivering, selling, or transferring the
35 firearm to himself or herself or to another dealer, on the date that
36 the application to purchase is completed, the dealer delivering the
37 firearm shall forward by prepaid mail to the Department of Justice
38 a report of the same and the type of information concerning the
39 purchaser or transferee as is indicated in subdivision (b) of Section
40 12077. Where the electronic or telephonic transfer of applicant

1 information is used, on the date that the application to purchase is
2 completed, the dealer delivering the firearm shall transmit an
3 electronic or telephonic report of the same and the type of
4 information concerning the purchaser or transferee as is indicated
5 in subdivision (b) of Section 12077.

6 (o) Section 12071 and subdivisions (c) and (d) of Section 12072
7 shall not apply to the delivery, sale, or transfer of a firearm
8 regulated pursuant to Section 12020, Chapter 2 (commencing with
9 Section 12200), Chapter 2.3 (commencing with Section 12275),
10 or Chapter 2.5 (commencing with Section 12301), if the delivery,
11 sale, or transfer of that firearm is conducted in accordance with
12 the applicable provisions of Section 12020, Chapter 2 (commencing
13 with Section 12200), Chapter 2.3 (commencing with Section
14 12275), or Chapter 2.5 (commencing with Section 12301).

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

20 (2) Paragraph (3) of subdivision (a) of Section 12072,
21 subdivision (d) of Section 12072, and subdivision (b) of Section
22 12801 shall not apply to the loan of a handgun to a minor by a
23 person who is not the parent or legal guardian of the minor if all
24 of the following circumstances exist:

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (r) The waiting period described in Section 12071 or 12072
40 shall not apply to the delivery, sale, or transfer of a firearm to the

holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm 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

1 of delivery. At the time of the loan, the consultant-evaluator shall
2 provide the following information, which the dealer shall retain
3 for two years:

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

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

10 (C) A letter from the person licensed as an importer,
11 manufacturer, or dealer pursuant to Chapter 44 (commencing with
12 Section 921) of Title 18 of the United States Code, with whom the
13 consultant-evaluator has a bona fide business relationship. The
14 letter shall detail the bona fide business purposes for which the
15 firearm is being loaned and confirm that the consultant-evaluator
16 is being loaned the firearm as part of a bona fide business
17 relationship.

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

21 (t) (1) The waiting periods described in Sections 12071 and
22 12072 shall not apply to the sale, delivery, loan, or transfer of a
23 firearm that is a curio or relic, as defined in Section 478.11 of Title
24 27 of the Code of Federal Regulations, or its successor, by a dealer
25 to a person who is licensed as a collector pursuant to Chapter 44
26 (commencing with Section 921) of Title 18 of the United States
27 Code and the regulations issued pursuant thereto who has a current
28 certificate of eligibility issued to him or her by the Department of
29 Justice pursuant to Section 12071. On the date that the delivery,
30 sale, or transfer is made, the dealer delivering the firearm shall
31 transmit to the Department of Justice an electronic or telephonic
32 report of the transaction as is indicated in subdivision (b) or (c) of
33 Section 12077.

34 (2) Subdivision (d) and paragraph (1) of subdivision (f) of
35 Section 12072 shall not apply to the infrequent sale, loan, or
36 transfer of a firearm that is not a handgun, which is a curio or relic
37 manufactured at least 50 years prior to the current date, but not
38 including replicas thereof, as defined in Section 478.11 of Title
39 27 of the Code of Federal Regulations, or its successor.

40 (u) As used in this section:

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

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

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

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

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

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

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

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

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

22 (H) Firearms passing to a surviving spouse pursuant to Chapter
23 1 (commencing with Section 13500) of Part 2 of Division 8 of the
24 Probate Code.

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

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

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

34 12083. (a) Commencing January 1, 2008, the Department of
35 Justice shall keep a centralized list of persons who identify
36 themselves as being licensed pursuant to Chapter 44 (commencing
37 with Section 921) of Title 18 of the United States Code as a dealer,
38 importer, or manufacturer of firearms whose licensed premises
39 are within this state and who declare to the department an
40 exemption from the firearms dealer licensing requirements of

1 Section 12070. The list shall be known as the centralized list of
2 exempted federal firearms licensees. To qualify for placement on
3 the centralized list, an applicant shall do all of the following:

4 (1) Possess a valid federal firearms license pursuant to Chapter
5 44 (commencing with Section 921) of Title 18 of the United States
6 Code as a dealer, importer, or manufacturer of firearms.

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

9 (3) Maintain with the department a signed declaration
10 enumerating the applicant's statutory exemptions from licensing
11 requirements of Section 12070. Any person furnishing a fictitious
12 name, knowingly furnishing any incorrect information, or
13 knowingly omitting any information for the declaration shall be
14 guilty of a misdemeanor.

15 (b) Commencing January 1, 2008, the department shall assess
16 an annual fee of one hundred fifteen dollars (\$115) to cover its
17 costs of maintaining the centralized list of exempted federal
18 firearms licensees prescribed by subdivision (a), conducting
19 inspections in accordance with this section, and for the cost of
20 maintaining the firearm shipment verification number system
21 described in subdivision (f) of Section 12072. A person who is not
22 licensed pursuant to Section 12071, who has been issued a permit
23 pursuant to Section 12095, 12287, 12230, or 12305, and who is
24 placed on the centralized list of exempted federal firearms licensees
25 shall not be charged the fee. The department may increase the fee
26 at a rate not to exceed the increase in the California Consumer
27 Price Index as compiled and reported by the Department of
28 Industrial Relations. The fees collected shall be deposited in the
29 Dealers' Record of Sale Special Account.

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

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

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

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

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

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

13 (2) When the information is requested by a person licensed
14 pursuant to Chapter 44 (commencing with Section 921) of Title
15 18 of the United States Code for determining the validity of the
16 license for firearm shipments.

17 (f) The department may conduct onsite inspections at the
18 business premises of a person on the centralized list described in
19 subdivision (a) to determine compliance with firearms laws
20 pursuant to Article 4 (commencing with Section 12070) of Chapter
21 1 of Title 2 of Part 4 of the Penal Code. The department shall work
22 in consultation with the Bureau of Alcohol, Tobacco, Firearms,
23 and Explosives to ensure that licensees are not subject to
24 duplicative inspections. During the inspection the following firearm
25 records shall be made available for review:

26 (1) Federal records referred to in subdivision (a) of Section
27 478.125 of Title 27 of the Code of Federal Regulations and the
28 bound book containing the same information referred to in Section
29 478.124a and subdivision (e) of Section 478.125 of Title 27 of the
30 Code of Federal Regulations.

31 (2) Verification numbers issued pursuant to subdivision (f) of
32 Section 12072.

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

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

37 (h) The department may adopt regulations as necessary to carry
38 out the provisions of this section, subdivision (f) of Section 12072,
39 and Section 12071. The department shall work in consultation with
40 the Bureau of Alcohol, Tobacco, Firearms, and Explosives to

- 1 ensure that state regulations are not duplicative of federal
- 2 regulations.

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