

Introduced by Senator Padilla
(Coauthor: Assembly Member Torres)

February 26, 2009

An act to amend Sections 21628 and 21628.1 of the Business and Professions Code, and to amend Section 12071 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 449, as introduced, Padilla. Firearms: transaction reports.

Existing law requires every secondhand dealer or coin dealer, as described, to report daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, as specified.

This bill would except firearms from those provisions. The bill would make other conforming changes.

Existing law generally regulates firearms dealers and firearms transactions. Existing law requires that on the date of receipt, the dealer shall report to the Department of Justice in a format prescribed by the department the acquisition by the dealer of the ownership of a handgun. These provisions also provide exceptions, including the case when the firearms dealer is also licensed as a secondhand dealer.

This bill would delete the exception to the reporting requirement pertaining to a firearms dealer who is also licensed as a secondhand dealer.

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

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

SECTION 1. Section 21628 of the Business and Professions Code is amended to read:

21628. Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property, *except firearms*, which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (j) of this section. The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

(a) The name and current address of the intended seller or pledger of the property.

(b) The identification of the intended seller or pledger. The identification of the seller or pledger of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number:

- (1) A passport of the United States.
- (2) A driver's license issued by any state, or Canada.
- (3) An identification card issued by any state.
- (4) An identification card issued by the United States.
- (5) A passport from any other country in addition to another item of identification bearing an address.

(c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and disassembling a watch with a penknife, caseknife, or similar

1 instrument does not constitute a special skill. In all instances where
2 the required information may be obtained by removal of a
3 watchband, then the watchband shall be removed. The cost
4 associated with opening the watch shall be borne by the
5 pawnbroker, secondhand dealer, or customer.

6 (d) A complete and reasonably accurate description of
7 nonserialized property, including, but not limited to, the following:
8 size, color, material, manufacturer's pattern name (when known),
9 owner-applied numbers and personalized inscriptions and other
10 identifying marks or symbols. Watches need not be disassembled
11 when special skill or special tools are required to obtain the
12 required information, unless specifically requested to do so by a
13 peace officer. A special tool does not include a penknife, caseknife,
14 or similar instrument and disassembling a watch with a penknife,
15 caseknife, or similar instrument does not constitute a special skill.
16 In all instances where the required information may be obtained
17 by removal of a watchband, then the watchband shall be removed.
18 The cost associated with opening the watch shall be borne by the
19 pawnbroker, secondhand dealer, or customer.

20 (e) A certification by the intended seller or pledger that he or
21 she is the owner of the property or has the authority of the owner
22 to sell or pledge the property.

23 (f) A certification by the intended seller or pledger that to his
24 or her knowledge and belief the information is true and complete.

25 (g) A legible fingerprint taken from the intended seller or
26 pledger, as prescribed by the Department of Justice. This
27 requirement does not apply to a coin dealer, unless required
28 pursuant to local regulation.

29 (h) When a secondhand dealer complies with all of the
30 provisions of this section, he or she shall be deemed to have
31 received from the seller or pledger adequate evidence of authority
32 to sell or pledge the property for all purposes included in this
33 article, and Division 8 (commencing with Section 21000) of the
34 Financial Code.

35 In enacting this subdivision, it is the intent of the Legislature
36 that its provisions shall not adversely affect the implementation
37 of, or prosecution under, any provision of the Penal Code.

38 (i) Any person who conducts business as a secondhand dealer
39 at any gun show or event, as defined in Section 478.100 of Title
40 27 of the Code of Federal Regulations, or its successor, outside

1 the jurisdiction that issued the secondhand dealer license in
2 accordance with subdivision (d) of Section 21641, may be required
3 to submit a duplicate of the transaction report prepared pursuant
4 to this section to the local law enforcement agency where the gun
5 show or event is conducted.

6 (j) (1) The Department of Justice shall, in consultation with
7 appropriate local law enforcement agencies, develop clear and
8 comprehensive descriptive categories denoting tangible personal
9 property subject to the reporting requirements of this section. These
10 categories shall be incorporated by secondhand dealers and coin
11 dealers described in Section 21626 for purposes of the reporting
12 requirements set forth herein. Any required report shall be
13 transmitted by electronic means. The Department of Justice and
14 local law enforcement agencies, in consultation with representatives
15 from the secondhand dealer and coin dealer businesses, shall
16 develop a standard format to be used statewide to transmit this
17 report electronically.

18 (2) Twelve months after the format and the categories described
19 in paragraph (1) have been developed, each secondhand dealer
20 and coin dealer shall electronically report using this format the
21 information required by this section under these reporting
22 categories. Until that time, each secondhand dealer and coin dealer
23 may either continue to report this information using existing forms
24 and procedures or may begin electronically reporting this
25 information under the reporting categories and using the format
26 described in paragraph (1) as soon as each has been developed.

27 (3) A coin dealer who engages in less than 10 transactions each
28 week in which he or she has purchased, taken in trade, taken in
29 pawn, accepted for sale or consignment, or accepted for auctioning
30 tangible personal property, shall report the information required
31 by this section under the reporting categories described in
32 paragraph (1) on a form developed by the Attorney General that
33 the coin dealer shall transmit each day by facsimile transmission
34 or by mail to the chief of police or sheriff. A transaction shall
35 consist of not more than one item. Nothing in this section shall
36 prohibit up to 10 transactions with the same customer per week,
37 provided that the cumulative total per week for all customers does
38 not exceed 10 transactions. Until that form is developed, these
39 coin dealers shall continue to report information required by this
40 section using existing forms and procedures. If these transactions

increase to 10 per week, the coin dealer shall electronically report using the format described in paragraph (1) the information required by this section beginning six months after his or her transactions exceed 10 per week or 12 months after the format described in paragraph (1) has been developed, whichever occurs later.

(4) For purposes of this subdivision, “item” shall mean any single physical article. However, with respect to a commonly accepted grouping of articles that are purchased as a set, including, but not limited to, a pair of earrings or place settings of china, silverware, or other tableware, “item” shall mean that commonly accepted grouping.

(5) Nothing in this subdivision shall be construed as excepting a secondhand dealer from the fingerprinting requirement of subdivision (g).

(k) Nothing in this section shall be construed to exempt a person licensed as a firearms dealer pursuant to Article 4 (commencing with Section 12071) of Chapter 1 of Title 2 of Part 4 of the Penal Code from the reporting requirements for firearms transactions under Section 12071 of the Penal Code.

SEC. 2. Section 21628.1 of the Business and Professions Code is amended to read:

21628.1. Notwithstanding Section 21628, ~~except for firearms~~, submission of transaction reports are not required to be submitted to the local law enforcement agency if the report of an acquisition of the same property from the same customer has been submitted within the preceding 12 months, except when submission of the reports is specifically requested in writing by the local licensing authority.

SEC. 3. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term “licensee,” “person licensed pursuant to Section 12071,” or “dealer” means a person who has all of the following:

- (A) A valid federal firearms license.
- (B) Any regulatory or business license, or licenses, required by local government.
- (C) A valid seller’s permit issued by the State Board of Equalization.
- (D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

1 (E) A license issued in the format prescribed by paragraph (6).

2 (F) Is among those recorded in the centralized list specified in
3 subdivision (e).

4 (2) The duly constituted licensing authority of a city, county,
5 or a city and county shall accept applications for, and may grant
6 licenses permitting, licensees to sell firearms at retail within the
7 city, county, or city and county. The duly constituted licensing
8 authority shall inform applicants who are denied licenses of the
9 reasons for the denial in writing.

10 (3) No license shall be granted to any applicant who fails to
11 provide a copy of his or her valid federal firearms license, valid
12 seller's permit issued by the State Board of Equalization, and the
13 certificate of eligibility described in paragraph (4).

14 (4) A person may request a certificate of eligibility from the
15 Department of Justice. The Department of Justice shall examine
16 its records and records available to the department in the National
17 Instant Criminal Background Check System in order to determine
18 if the applicant is prohibited by state or federal law from
19 possessing, receiving, owning, or purchasing a firearm and issue
20 a certificate to an applicant if the department's records indicate
21 that the applicant is not a person who is prohibited by state or
22 federal law from possessing firearms.

23 (5) The department shall adopt regulations to administer the
24 certificate of eligibility program and shall recover the full costs of
25 administering the program by imposing fees assessed to applicants
26 who apply for those certificates.

27 (6) A license granted by the duly constituted licensing authority
28 of any city, county, or city and county, shall be valid for not more
29 than one year from the date of issuance and shall be in one of the
30 following forms:

31 (A) In the form prescribed by the Attorney General.

32 (B) A regulatory or business license that states on its face "Valid
33 for Retail Sales of Firearms" and is endorsed by the signature of
34 the issuing authority.

35 (C) A letter from the duly constituted licensing authority having
36 primary jurisdiction for the applicant's intended business location
37 stating that the jurisdiction does not require any form of regulatory
38 or business license or does not otherwise restrict or regulate the
39 sale of firearms.

1 (7) Local licensing authorities may assess fees to recover their
2 full costs of processing applications for licenses.

3 (b) A license is subject to forfeiture for a breach of any of the
4 following prohibitions and requirements:

5 (1) (A) Except as provided in subparagraphs (B) and (C), the
6 business shall be conducted only in the buildings designated in the
7 license.

8 (B) A person licensed pursuant to subdivision (a) may take
9 possession of firearms and commence preparation of registers for
10 the sale, delivery, or transfer of firearms at gun shows or events,
11 as defined in Section 478.100 of Title 27 of the Code of Federal
12 Regulations, or its successor, if the gun show or event is not
13 conducted from any motorized or towed vehicle. A person
14 conducting business pursuant to this subparagraph shall be entitled
15 to conduct business as authorized herein at any gun show or event
16 in the state without regard to the jurisdiction within this state that
17 issued the license pursuant to subdivision (a), provided the person
18 complies with (i) all applicable laws, including, but not limited to,
19 the waiting period specified in subparagraph (A) of paragraph (3),
20 and (ii) all applicable local laws, regulations, and fees, if any.

21 A person conducting business pursuant to this subparagraph
22 shall publicly display his or her license issued pursuant to
23 subdivision (a), or a facsimile thereof, at any gun show or event,
24 as specified in this subparagraph.

25 (C) A person licensed pursuant to subdivision (a) may engage
26 in the sale and transfer of firearms other than pistols, revolvers, or
27 other firearms capable of being concealed upon the person, at
28 events specified in subdivision (g) of Section 12078, subject to
29 the prohibitions and restrictions contained in that subdivision.

30 A person licensed pursuant to subdivision (a) also may accept
31 delivery of firearms other than pistols, revolvers, or other firearms
32 capable of being concealed upon the person, outside the building
33 designated in the license, provided the firearm is being donated
34 for the purpose of sale or transfer at an auction or similar event
35 specified in subdivision (g) of Section 12078.

36 (D) The firearm may be delivered to the purchaser, transferee,
37 or person being loaned the firearm at one of the following places:

38 (i) The building designated in the license.

39 (ii) The places specified in subparagraph (B) or (C).

1 (iii) The place of residence of, the fixed place of business of,
2 or on private property owned or lawfully possessed by, the
3 purchaser, transferee, or person being loaned the firearm.

4 (2) The license or a copy thereof, certified by the issuing
5 authority, shall be displayed on the premises where it can easily
6 be seen.

7 (3) No firearm shall be delivered:

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

14 (B) Unless unloaded and securely wrapped or unloaded and in
15 a locked container.

16 (C) Unless the purchaser, transferee, or person being loaned the
17 firearm presents clear evidence of his or her identity and age to
18 the dealer.

19 (D) Whenever the dealer is notified by the Department of Justice
20 that the person is prohibited by state or federal law from processing,
21 owning, purchasing, or receiving a firearm. The dealer shall make
22 available to the person in the prohibited class a prohibited notice
23 and transfer form, provided by the department, stating that the
24 person is prohibited from owning or possessing a firearm, and that
25 the person may obtain from the department the reason for the
26 prohibition.

27 (4) No pistol, revolver, or other firearm or imitation thereof
28 capable of being concealed upon the person, or placard advertising
29 the sale or other transfer thereof, shall be displayed in any part of
30 the premises where it can readily be seen from the outside.

31 (5) The licensee shall agree to and shall act properly and
32 promptly in processing firearms transactions pursuant to Section
33 12082.

34 (6) The licensee shall comply with Sections 12073, 12076, and
35 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
36 (f) of Section 12072, and subdivision (a) of Section 12316.

37 (7) The licensee shall post conspicuously within the licensed
38 premises the following warnings in block letters not less than one
39 inch in height:

1 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
2 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
3 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
4 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
5 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
6 MISDEMEANOR OR A FELONY UNLESS YOU STORED
7 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
8 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
9 FROM TEMPORARILY FUNCTIONING."

10 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
11 FIREARM CAPABLE OF BEING CONCEALED UPON THE
12 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
13 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
14 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
15 OFF-PREMISES, YOU MAY BE GUILTY OF A
16 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
17 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
18 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
19 FUNCTIONING."

20 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY
21 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
22 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
23 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
24 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
25 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
26 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
27 STORED THE FIREARM IN A LOCKED CONTAINER, OR
28 LOCKED THE FIREARM WITH A LOCKING DEVICE."

29 (D) "DISCHARGING FIREARMS IN POORLY
30 VENTILATED AREAS, CLEANING FIREARMS, OR
31 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
32 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
33 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
34 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
35 ALL TIMES. WASH HANDS THOROUGHLY AFTER
36 EXPOSURE."

37 (E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU
38 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
39 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
40 DAYS AFTER YOU COMPLETE THE INITIAL

1 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
2 TO GO THROUGH THE BACKGROUND CHECK PROCESS
3 A SECOND TIME IN ORDER TO TAKE PHYSICAL
4 POSSESSION OF THAT FIREARM.”

5 (F) “NO PERSON SHALL MAKE AN APPLICATION TO
6 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
7 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON
8 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO
9 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS
10 MADE AN APPLICATION TO PURCHASE MORE THAN ONE
11 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF
12 BEING CONCEALED UPON THE PERSON WITHIN ANY
13 30-DAY PERIOD.”

14 (8) (A) Commencing April 1, 1994, and until January 1, 2003,
15 no pistol, revolver, or other firearm capable of being concealed
16 upon the person shall be delivered unless the purchaser, transferee,
17 or person being loaned the firearm presents to the dealer a basic
18 firearms safety certificate.

19 (B) Commencing January 1, 2003, no dealer may deliver a
20 handgun unless the person receiving the handgun presents to the
21 dealer a valid handgun safety certificate. The firearms dealer shall
22 retain a photocopy of the handgun safety certificate as proof of
23 compliance with this requirement.

24 (C) Commencing January 1, 2003, no handgun may be delivered
25 unless the purchaser, transferee, or person being loaned the firearm
26 presents documentation indicating that he or she is a California
27 resident. Satisfactory documentation shall include a utility bill
28 from within the last three months, a residential lease, a property
29 deed, or military permanent duty station orders indicating
30 assignment within this state, or other evidence of residency as
31 permitted by the Department of Justice. The firearms dealer shall
32 retain a photocopy of the documentation as proof of compliance
33 with this requirement.

34 (D) Commencing January 1, 2003, except as authorized by the
35 department, no firearms dealer may deliver a handgun unless the
36 recipient performs a safe handling demonstration with that
37 handgun. The demonstration shall commence with the handgun
38 unloaded and locked with the firearm safety device with which it
39 is required to be delivered, if applicable. While maintaining muzzle
40 awareness, that is, the firearm is pointed in a safe direction,

1 preferably down at the ground, and trigger discipline, that is, the
2 trigger finger is outside of the trigger guard and along side of the
3 handgun frame, at all times, the handgun recipient shall correctly
4 and safely perform the following:

5 (i) If the handgun is a semiautomatic pistol:

6 (I) Remove the magazine.

7 (II) Lock the slide back. If the model of firearm does not allow
8 the slide to be locked back, pull the slide back, visually and
9 physically check the chamber to ensure that it is clear.

10 (III) Visually and physically inspect the chamber, to ensure that
11 the handgun is unloaded.

12 (IV) Remove the firearm safety device, if applicable. If the
13 firearm safety device prevents any of the previous steps, remove
14 the firearm safety device during the appropriate step.

15 (V) Load one bright orange, red, or other readily identifiable
16 dummy round into the magazine. If no readily identifiable dummy
17 round is available, an empty cartridge casing with an empty primer
18 pocket may be used.

19 (VI) Insert the magazine into the magazine well of the firearm.

20 (VII) Manipulate the slide release or pull back and release the
21 slide.

22 (VIII) Remove the magazine.

23 (IX) Visually inspect the chamber to reveal that a round can be
24 chambered with the magazine removed.

25 (X) Lock the slide back to eject the bright orange, red, or other
26 readily identifiable dummy round. If the handgun is of a model
27 that does not allow the slide to be locked back, pull the slide back
28 and physically check the chamber to ensure that the chamber is
29 clear. If no readily identifiable dummy round is available, an empty
30 cartridge casing with an empty primer pocket may be used.

31 (XI) Apply the safety, if applicable.

32 (XII) Apply the firearm safety device, if applicable. This
33 requirement shall not apply to an Olympic competition pistol if
34 no firearms safety device, other than a cable lock that the
35 department has determined would damage the barrel of the pistol,
36 has been approved for the pistol, and the pistol is either listed in
37 paragraph (2) of subdivision (h) of Section 12132 or is subject to
38 paragraph (3) of subdivision (h) of Section 12132.

39 (ii) If the handgun is a double-action revolver:

40 (I) Open the cylinder.

1 (II) Visually and physically inspect each chamber, to ensure
2 that the revolver is unloaded.

3 (III) Remove the firearm safety device. If the firearm safety
4 device prevents any of the previous steps, remove the firearm
5 safety device during the appropriate step.

6 (IV) While maintaining muzzle awareness and trigger discipline,
7 load one bright orange, red, or other readily identifiable dummy
8 round into a chamber of the cylinder and rotate the cylinder so that
9 the round is in the next-to-fire position. If no readily identifiable
10 dummy round is available, an empty cartridge casing with an empty
11 primer pocket may be used.

12 (V) Close the cylinder.

13 (VI) Open the cylinder and eject the round.

14 (VII) Visually and physically inspect each chamber to ensure
15 that the revolver is unloaded.

16 (VIII) Apply the firearm safety device, if applicable. This
17 requirement shall not apply to an Olympic competition pistol if
18 no firearms safety device, other than a cable lock that the
19 department has determined would damage the barrel of the pistol,
20 has been approved for the pistol, and the pistol is either listed in
21 paragraph (2) of subdivision (h) of Section 12132 or is subject to
22 paragraph (3) of subdivision (h) of Section 12132.

23 (iii) If the handgun is a single-action revolver:

24 (I) Open the loading gate.

25 (II) Visually and physically inspect each chamber, to ensure
26 that the revolver is unloaded.

27 (III) Remove the firearm safety device required to be sold with
28 the handgun. If the firearm safety device prevents any of the
29 previous steps, remove the firearm safety device during the
30 appropriate step.

31 (IV) Load one bright orange, red, or other readily identifiable
32 dummy round into a chamber of the cylinder, close the loading
33 gate and rotate the cylinder so that the round is in the next-to-fire
34 position. If no readily identifiable dummy round is available, an
35 empty cartridge casing with an empty primer pocket may be used.

36 (V) Open the loading gate and unload the revolver.

37 (VI) Visually and physically inspect each chamber to ensure
38 that the revolver is unloaded.

39 (VII) Apply the firearm safety device, if applicable. This
40 requirement shall not apply to an Olympic competition pistol if

1 no firearms safety device, other than a cable lock that the
2 department has determined would damage the barrel of the pistol,
3 has been approved for the pistol, and the pistol is either listed in
4 paragraph (2) of subdivision (h) of Section 12132 or is subject to
5 paragraph (3) of subdivision (h) of Section 12132.

6 (E) The recipient shall receive instruction regarding how to
7 render that handgun safe in the event of a jam.

8 (F) The firearms dealer shall sign and date an affidavit stating
9 that the requirements of subparagraph (D) have been met. The
10 firearms dealer shall additionally obtain the signature of the
11 handgun purchaser on the same affidavit. The firearms dealer shall
12 retain the original affidavit as proof of compliance with this
13 requirement.

14 (G) The recipient shall perform the safe handling demonstration
15 for a department-certified instructor.

16 (H) No demonstration shall be required if the dealer is returning
17 the handgun to the owner of the handgun.

18 (I) Department-certified instructors who may administer the
19 safe handling demonstration shall meet the requirements set forth
20 in subdivision (j) of Section 12804.

21 (J) The persons who are exempt from the requirements of
22 subdivision (b) of Section 12801, pursuant to Section 12807, are
23 also exempt from performing the safe handling demonstration.

24 (9) Commencing July 1, 1992, the licensee shall offer to provide
25 the purchaser or transferee of a firearm, or person being loaned a
26 firearm, with a copy of the pamphlet described in Section 12080
27 and may add the cost of the pamphlet, if any, to the sales price of
28 the firearm.

29 (10) The licensee shall not commit an act of collusion as defined
30 in Section 12072.

31 (11) The licensee shall post conspicuously within the licensed
32 premises a detailed list of each of the following:

33 (A) All charges required by governmental agencies for
34 processing firearm transfers required by Sections 12076, 12082,
35 and 12806.

36 (B) All fees that the licensee charges pursuant to Sections 12082
37 and 12806.

38 (12) The licensee shall not misstate the amount of fees charged
39 by a governmental agency pursuant to Sections 12076, 12082, and
40 12806.

(13) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), all firearms that are in the inventory of the licensee shall be kept within the licensed location. The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol,

1 revolver, or other firearm capable of being concealed upon the
2 person.

3 (B) The provisions of this paragraph shall not apply to any of
4 the following transactions:

5 (i) A transaction subject to the provisions of subdivision (n) of
6 Section 12078.

7 (ii) The dealer acquired the firearm from a wholesaler.

8 ~~(iii) The dealer is also licensed as a secondhand dealer pursuant~~
9 ~~to Article 4 (commencing with Section 21625) of Chapter 9 of~~
10 ~~Division 8 of the Business and Professions Code.~~

11 ~~(iv)~~

12 (iii) The dealer acquired the firearm from a person who is
13 licensed as a manufacturer or importer to engage in those activities
14 pursuant to Chapter 44 (commencing with Section 921) of Title
15 18 of the United States Code and any regulations issued pursuant
16 thereto.

17 ~~(v)~~

18 (iv) The dealer acquired the firearm from a person who resides
19 outside this state who is licensed pursuant to Chapter 44
20 (commencing with Section 921) of Title 18 of the United States
21 Code and any regulations issued pursuant thereto.

22 (19) The licensee shall forward in a format prescribed by the
23 Department of Justice, information as required by the department
24 on any firearm that is not delivered within the time period set forth
25 in Section 478.102 (c) of Title 27 of the Code of Federal
26 Regulations.

27 (20) (A) Firearms dealers may require any agent who handles,
28 sells, or delivers firearms to obtain and provide to the dealer a
29 certificate of eligibility from the department pursuant to paragraph
30 (4) of subdivision (a). The agent or employee shall provide on the
31 application, the name and California firearms dealer number of
32 the firearms dealer with whom he or she is employed.

33 (B) The department shall notify the firearms dealer in the event
34 that the agent or employee who has a certificate of eligibility is or
35 becomes prohibited from possessing firearms.

36 (C) If the local jurisdiction requires a background check of the
37 agents or employees of the firearms dealer, the agent or employee
38 shall obtain a certificate of eligibility pursuant to subparagraph
39 (A).

(D) Nothing in this paragraph shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105 or prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility, provided however, that the local jurisdiction may not charge a fee for the additional criminal history check.

(E) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in clause (ii) of subparagraph (G) of this paragraph.

(F) Nothing in this paragraph shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents.

(G) For purposes of this section, the following definitions shall apply:

(i) An “agent” is an employee of the licensee.

(ii) “Secured” means a firearm that is made inoperable in one or more of the following ways:

(I) The firearm is inoperable because it is secured by a firearms safety device listed on the department’s roster of approved firearms safety devices pursuant to subdivision (d) of Section 12088 of this chapter.

(II) The firearm is stored in a locked gun safe or long-gun safe which meets the standards for department-approved gun safes set forth in Section 12088.2.

(III) The firearm is stored in a distinct locked room or area in the building that is used to store firearms that can only be unlocked by a key, a combination, or similar means.

(IV) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(c) (1) As used in this article, “clear evidence of his or her identity and age” means either of the following:

(A) A valid California driver’s license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a “secure facility” means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least ½-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee’s premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, “licensed premises,” “licensed place of business,” “licensee’s place of business,” or “licensee’s business premises” means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A “firearms transaction record” is a record containing the same information referred to in subdivision (a) of Section 478.124, Section 478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 478.124a and

1 subdivision (e) of Section 478.125 of Title 27 of the Code of
2 Federal Regulations and the records referred to in subdivision (a)
3 of Section 478.124 of Title 27 of the Code of Federal Regulations.

4 (d) Upon written request from a licensee, the licensing authority
5 may grant an exemption from compliance with the requirements
6 of paragraph (14) of subdivision (b) if the licensee is unable to
7 comply with those requirements because of local ordinances,
8 covenants, lease conditions, or similar circumstances not under
9 the control of the licensee.

10 (e) (1) Except as otherwise provided in this paragraph, the
11 Department of Justice shall keep a centralized list of all persons
12 licensed pursuant to subparagraphs (A) to (E), inclusive, of
13 paragraph (1) of subdivision (a). The department may remove from
14 this list any person who knowingly or with gross negligence
15 violates this article. Upon removal of a dealer from this list,
16 notification shall be provided to local law enforcement and
17 licensing authorities in the jurisdiction where the dealer's business
18 is located.

19 (2) The department shall remove from the centralized list any
20 person whose federal firearms license has expired or has been
21 revoked.

22 (3) Information compiled from the list shall be made available,
23 upon request, for the following purposes only:

24 (A) For law enforcement purposes.

25 (B) When the information is requested by a person licensed
26 pursuant to Chapter 44 (commencing with Section 921) of Title
27 18 of the United States Code for determining the validity of the
28 license for firearm shipments.

29 (C) When information is requested by a person promoting,
30 sponsoring, operating, or otherwise organizing a show or event as
31 defined in Section 478.100 of Title 27 of the Code of Federal
32 Regulations, or its successor, who possesses a valid certificate of
33 eligibility issued pursuant to Section 12071.1, if that information
34 is requested by the person to determine the eligibility of a
35 prospective participant in a gun show or event to conduct
36 transactions as a firearms dealer pursuant to subparagraph (B) of
37 paragraph (1) of subdivision (b).

38 (4) Information provided pursuant to paragraph (3) shall be
39 limited to information necessary to corroborate an individual's
40 current license status as being one of the following:

1 (A) A person licensed pursuant to subparagraphs (A) to (E),
2 inclusive, of paragraph (1) of subdivision (a).

3 (B) A person licensed pursuant to Chapter 44 (commencing
4 with Section 921) of Title 18 of the United States Code and who
5 is not subject to the requirement that he or she be licensed pursuant
6 to subparagraphs (A) to (E), inclusive, of paragraph (1) of
7 subdivision (a).

8 (f) The Department of Justice may inspect dealers to ensure
9 compliance with this article. The department may assess an annual
10 fee, not to exceed one hundred fifteen dollars (\$115), to cover the
11 reasonable cost of maintaining the list described in subdivision
12 (e), including the cost of inspections. Dealers whose place of
13 business is in a jurisdiction that has adopted an inspection program
14 to ensure compliance with firearms law shall be exempt from that
15 portion of the department's fee that relates to the cost of
16 inspections. The applicant is responsible for providing evidence
17 to the department that the jurisdiction in which the business is
18 located has the inspection program.

19 (g) The Department of Justice shall maintain and make available
20 upon request information concerning the number of inspections
21 conducted and the amount of fees collected pursuant to subdivision
22 (f), a listing of exempted jurisdictions, as defined in subdivision
23 (f), the number of dealers removed from the centralized list defined
24 in subdivision (e), and the number of dealers found to have violated
25 this article with knowledge or gross negligence.

26 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
27 a licensee organized as a nonprofit public benefit or mutual benefit
28 corporation organized pursuant to Part 2 (commencing with Section
29 5110) or Part 3 (commencing with Section 7110) of Division 2 of
30 the Corporations Code, if both of the following conditions are
31 satisfied:

32 (1) The nonprofit public benefit or mutual benefit corporation
33 obtained the dealer's license solely and exclusively to assist that
34 corporation or local chapters of that corporation in conducting
35 auctions or similar events at which firearms are auctioned off to
36 fund the activities of that corporation or the local chapters of the
37 corporation.

- 1 (2) The firearms are not pistols, revolvers, or other firearms
- 2 capable of being concealed upon the person.

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