

AMENDED IN ASSEMBLY JUNE 4, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 449

Introduced by Senator Padilla
(Coauthor: Senator Hancock)
(Coauthor: Assembly Member Torres)

February 26, 2009

An act to amend Sections 21628 and 21628.1 of, and to add Section 21628.2 to, the Business and Professions Code, and to amend Section 12071 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 449, as amended, 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. Other existing provisions of law make a violation of these provisions a criminal offense.

This bill would except firearms from those provisions. The bill would make other conforming changes. The bill would establish separate reporting procedures for secondhand dealers in connection with firearms.

By establishing reporting requirements, the violation of which would be an offense under other provisions of existing law, this bill would impose a state-mandated local program.

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.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 21628 of the Business and Professions
- 2 Code is amended to read:
- 3 21628. Every secondhand dealer or coin dealer described in
- 4 Section 21626 shall report daily, or on the first working day after
- 5 receipt or purchase of the property, on forms either approved or
- 6 provided at actual cost by the Department of Justice, all tangible
- 7 personal property, except firearms, which he or she has purchased,
- 8 taken in trade, taken in pawn, accepted for sale on consignment,
- 9 or accepted for auctioning, to the chief of police or to the sheriff,
- 10 in accordance with the provisions of Sections 21630 and 21633
- 11 and subdivision (j) of this section. The report shall be legible,
- 12 prepared in English, completed where applicable, and include, but
- 13 not be limited to, the following information:
- 14 (a) The name and current address of the intended seller or
- 15 pledger of the property.
- 16 (b) The identification of the intended seller or pledger. The
- 17 identification of the seller or pledger of the property shall be
- 18 verified by the person taking the information. The verification
- 19 shall be valid if the person taking the information reasonably relies
- 20 on any one of the following documents, provided that the document
- 21 is currently valid or has been issued within five years and contains
- 22 a photograph or description, or both, of the person named on it, is
- 23 signed by the person, and bears a serial or other identifying number:

1 (1) A passport of the United States.

2 (2) A driver's license issued by any state, or Canada.

3 (3) An identification card issued by any state.

4 (4) An identification card issued by the United States.

5 (5) A passport from any other country in addition to another
6 item of identification bearing an address.

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

21 (d) A complete and reasonably accurate description of
22 nonserialized property, including, but not limited to, the following:
23 size, color, material, manufacturer's pattern name (when known),
24 owner-applied numbers and personalized inscriptions and other
25 identifying marks or symbols. Watches need not be disassembled
26 when special skill or special tools are required to obtain the
27 required information, unless specifically requested to do so by a
28 peace officer. A special tool does not include a penknife, caseknife,
29 or similar instrument and disassembling a watch with a penknife,
30 caseknife, or similar instrument does not constitute a special skill.
31 In all instances where the required information may be obtained
32 by removal of a watchband, then the watchband shall be removed.
33 The cost associated with opening the watch shall be borne by the
34 pawnbroker, secondhand dealer, or customer.

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

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

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

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

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

14 (i) Any person who conducts business as a secondhand dealer
15 at any gun show or event, as defined in Section 478.100 of Title
16 27 of the Code of Federal Regulations, or its successor, outside
17 the jurisdiction that issued the secondhand dealer license in
18 accordance with subdivision (d) of Section 21641, may be required
19 to submit a duplicate of the transaction report prepared pursuant
20 to this section to the local law enforcement agency where the gun
21 show or event is conducted.

22 (j) (1) The Department of Justice shall, in consultation with
23 appropriate local law enforcement agencies, develop clear and
24 comprehensive descriptive categories denoting tangible personal
25 property subject to the reporting requirements of this section. These
26 categories shall be incorporated by secondhand dealers and coin
27 dealers described in Section 21626 for purposes of the reporting
28 requirements set forth herein. Any required report shall be
29 transmitted by electronic means. The Department of Justice and
30 local law enforcement agencies, in consultation with representatives
31 from the secondhand dealer and coin dealer businesses, shall
32 develop a standard format to be used statewide to transmit this
33 report electronically.

34 (2) Twelve months after the format and the categories described
35 in paragraph (1) have been developed, each secondhand dealer
36 and coin dealer shall electronically report using this format the
37 information required by this section under these reporting
38 categories. Until that time, each secondhand dealer and coin dealer
39 may either continue to report this information using existing forms
40 and procedures or may begin electronically reporting this

1 information under the reporting categories and using the format
2 described in paragraph (1) as soon as each has been developed.

3 (3) A coin dealer who engages in less than 10 transactions each
4 week in which he or she has purchased, taken in trade, taken in
5 pawn, accepted for sale or consignment, or accepted for auctioning
6 tangible personal property, shall report the information required
7 by this section under the reporting categories described in
8 paragraph (1) on a form developed by the Attorney General that
9 the coin dealer shall transmit each day by facsimile transmission
10 or by mail to the chief of police or sheriff. A transaction shall
11 consist of not more than one item. Nothing in this section shall
12 prohibit up to 10 transactions with the same customer per week,
13 provided that the cumulative total per week for all customers does
14 not exceed 10 transactions. Until that form is developed, these
15 coin dealers shall continue to report information required by this
16 section using existing forms and procedures. If these transactions
17 increase to 10 per week, the coin dealer shall electronically report
18 using the format described in paragraph (1) the information
19 required by this section beginning six months after his or her
20 transactions exceed 10 per week or 12 months after the format
21 described in paragraph (1) has been developed, whichever occurs
22 later.

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

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

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

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

39 21628.1. Notwithstanding Section 21628, submission of
40 transaction reports are not required to be submitted to the local

1 law enforcement agency if the report of an acquisition of the same
2 property from the same customer has been submitted within the
3 preceding 12 months, except when submission of the reports is
4 specifically requested in writing by the local licensing authority.

5 ~~SEC. 3. Section 21628.2 is added to the Business and~~
6 ~~Professions Code, to read:~~

7 ~~21628.2. Every secondhand dealer described in Section 21626~~
8 ~~shall report to the Department of Justice daily, or on the first~~
9 ~~working day after receipt, all firearms purchased, taken in trade,~~
10 ~~taken in pawn, accepted for sale on consignment, or accepted for~~
11 ~~auctioning. The report shall be submitted in a format prescribed~~
12 ~~by the Department of Justice. The Department of Justice may retain~~
13 ~~secondhand dealer reports to determine whether a firearm taken~~
14 ~~in by a secondhand dealer has been reported lost or stolen. The~~
15 ~~secondhand dealer shall also submit a Dealers' Record of Sale~~
16 ~~form to the department for firearm transfers where the secondhand~~
17 ~~dealer relinquishes possession of the firearm. The Dealers' Record~~
18 ~~of Sale form shall be retained by the department pursuant to~~
19 ~~paragraph (1) of subdivision (b) of Section 11106.~~

20 ~~SEC. 3. Section 21628.2 is added to the Business and~~
21 ~~Professions Code, to read:~~

22 ~~21628.2. (a) For purposes of this section, the "department"~~
23 ~~shall mean the Department of Justice.~~

24 ~~(b) Every secondhand dealer described in Section 21626 shall,~~
25 ~~in a format prescribed by the department, and on the day of the~~
26 ~~transaction, electronically report to the department each firearm~~
27 ~~purchased, taken in trade, taken in pawn, accepted for sale on~~
28 ~~consignment, or accepted for auctioning. The secondhand dealer~~
29 ~~shall retain a copy of the report submitted to the department and~~
30 ~~make it available for inspection by the department, any peace~~
31 ~~officer, or any local law enforcement employee who is authorized~~
32 ~~by Section 12071 of the Penal Code to inspect a firearms~~
33 ~~transaction record. The secondhand dealer shall also submit a~~
34 ~~Dealers' Record of Sale to the department for firearm transfers~~
35 ~~in which the secondhand dealer relinquishes possession of the~~
36 ~~firearm.~~

37 ~~(c) The department may retain secondhand dealer reports to~~
38 ~~determine whether a firearm taken in by a secondhand dealer has~~
39 ~~been reported lost or stolen. If the department's records indicate~~
40 ~~that the firearm is lost or stolen, the department shall notify the~~

1 law enforcement agency that entered the information in the
2 department's records and a law enforcement agency with
3 jurisdiction over the secondhand dealer's business location about
4 the status of the firearm. The Dealers' Record of Sale shall be
5 retained by the department pursuant to paragraph (1) of
6 subdivision (b) of Section 11106 of the Penal Code. Upon the
7 request of any law enforcement agency, the department shall
8 forward to the agency the information in the report described in
9 subdivision (a).

10 SEC. 4. Section 12071 of the Penal Code is amended to read:

11 12071. (a) (1) As used in this chapter, the term "licensee,"
12 "person licensed pursuant to Section 12071," or "dealer" means a
13 person who has all of the following:

14 (A) A valid federal firearms license.

15 (B) Any regulatory or business license, or licenses, required by
16 local government.

17 (C) A valid seller's permit issued by the State Board of
18 Equalization.

19 (D) A certificate of eligibility issued by the Department of
20 Justice pursuant to paragraph (4).

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

22 (F) Is among those recorded in the centralized list specified in
23 subdivision (e).

24 (2) The duly constituted licensing authority of a city, county,
25 or a city and county shall accept applications for, and may grant
26 licenses permitting, licensees to sell firearms at retail within the
27 city, county, or city and county. The duly constituted licensing
28 authority shall inform applicants who are denied licenses of the
29 reasons for the denial in writing.

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

34 (4) A person may request a certificate of eligibility from the
35 Department of Justice. The Department of Justice shall examine
36 its records and records available to the department in the National
37 Instant Criminal Background Check System in order to determine
38 if the applicant is prohibited by state or federal law from
39 possessing, receiving, owning, or purchasing a firearm and issue
40 a certificate to an applicant if the department's records indicate

1 that the applicant is not a person who is prohibited by state or
2 federal law from possessing firearms.

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

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

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

12 (B) A regulatory or business license that states on its face “Valid
13 for Retail Sales of Firearms” and is endorsed by the signature of
14 the issuing authority.

15 (C) A letter from the duly constituted licensing authority having
16 primary jurisdiction for the applicant’s intended business location
17 stating that the jurisdiction does not require any form of regulatory
18 or business license or does not otherwise restrict or regulate the
19 sale of firearms.

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

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

24 (1) (A) Except as provided in subparagraphs (B) and (C), the
25 business shall be conducted only in the buildings designated in the
26 license.

27 (B) A person licensed pursuant to subdivision (a) may take
28 possession of firearms and commence preparation of registers for
29 the sale, delivery, or transfer of firearms at gun shows or events,
30 as defined in Section 478.100 of Title 27 of the Code of Federal
31 Regulations, or its successor, if the gun show or event is not
32 conducted from any motorized or towed vehicle. A person
33 conducting business pursuant to this subparagraph shall be entitled
34 to conduct business as authorized herein at any gun show or event
35 in the state without regard to the jurisdiction within this state that
36 issued the license pursuant to subdivision (a), provided the person
37 complies with (i) all applicable laws, including, but not limited to,
38 the waiting period specified in subparagraph (A) of paragraph (3),
39 and (ii) all applicable local laws, regulations, and fees, if any.

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

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

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

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

18 (i) The building designated in the license.

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

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

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

26 (3) No firearm shall be delivered:

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

33 (B) Unless unloaded and securely wrapped or unloaded and in
34 a locked container.

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

38 (D) Whenever the dealer is notified by the Department of Justice
39 that the person is prohibited by state or federal law from processing,
40 owning, purchasing, or receiving a firearm. The dealer shall make

1 available to the person in the prohibited class a prohibited notice
2 and transfer form, provided by the department, stating that the
3 person is prohibited from owning or possessing a firearm, and that
4 the person may obtain from the department the reason for the
5 prohibition.

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

10 (5) The licensee shall agree to and shall act properly and
11 promptly in processing firearms transactions pursuant to Section
12 12082.

13 (6) The licensee shall comply with Sections 12073, 12076, and
14 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
15 (f) of Section 12072, and subdivision (a) of Section 12316.

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

19 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
20 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
21 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
22 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES
23 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A
24 MISDEMEANOR OR A FELONY UNLESS YOU STORED
25 THE FIREARM IN A LOCKED CONTAINER OR LOCKED
26 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT
27 FROM TEMPORARILY FUNCTIONING."

28 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
29 FIREARM CAPABLE OF BEING CONCEALED UPON THE
30 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY
31 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE
32 GAINS ACCESS TO THE FIREARM, AND CARRIES IT
33 OFF-PREMISES, YOU MAY BE GUILTY OF A
34 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN
35 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH
36 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY
37 FUNCTIONING."

38 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY
39 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
40 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO

1 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
2 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
3 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
4 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
5 STORED THE FIREARM IN A LOCKED CONTAINER, OR
6 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

7 (D) “DISCHARGING FIREARMS IN POORLY
8 VENTILATED AREAS, CLEANING FIREARMS, OR
9 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
10 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
11 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
12 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
13 ALL TIMES. WASH HANDS THOROUGHLY AFTER
14 EXPOSURE.”

15 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
16 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
17 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
18 DAYS AFTER YOU COMPLETE THE INITIAL
19 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
20 TO GO THROUGH THE BACKGROUND CHECK PROCESS
21 A SECOND TIME IN ORDER TO TAKE PHYSICAL
22 POSSESSION OF THAT FIREARM.”

23 (F) “NO PERSON SHALL MAKE AN APPLICATION TO
24 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
25 OTHER FIREARM CAPABLE OF BEING CONCEALED UPON
26 THE PERSON WITHIN ANY 30-DAY PERIOD AND NO
27 DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS
28 MADE AN APPLICATION TO PURCHASE MORE THAN ONE
29 PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF
30 BEING CONCEALED UPON THE PERSON WITHIN ANY
31 30-DAY PERIOD.”

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

37 (B) Commencing January 1, 2003, no dealer may deliver a
38 handgun unless the person receiving the handgun presents to the
39 dealer a valid handgun safety certificate. The firearms dealer shall

1 retain a photocopy of the handgun safety certificate as proof of
2 compliance with this requirement.

3 (C) Commencing January 1, 2003, no handgun may be delivered
4 unless the purchaser, transferee, or person being loaned the firearm
5 presents documentation indicating that he or she is a California
6 resident. Satisfactory documentation shall include a utility bill
7 from within the last three months, a residential lease, a property
8 deed, or military permanent duty station orders indicating
9 assignment within this state, or other evidence of residency as
10 permitted by the Department of Justice. The firearms dealer shall
11 retain a photocopy of the documentation as proof of compliance
12 with this requirement.

13 (D) Commencing January 1, 2003, except as authorized by the
14 department, no firearms dealer may deliver a handgun unless the
15 recipient performs a safe handling demonstration with that
16 handgun. The demonstration shall commence with the handgun
17 unloaded and locked with the firearm safety device with which it
18 is required to be delivered, if applicable. While maintaining muzzle
19 awareness, that is, the firearm is pointed in a safe direction,
20 preferably down at the ground, and trigger discipline, that is, the
21 trigger finger is outside of the trigger guard and along side of the
22 handgun frame, at all times, the handgun recipient shall correctly
23 and safely perform the following:

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

25 (I) Remove the magazine.

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

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

31 (IV) Remove the firearm safety device, if applicable. If the
32 firearm safety device prevents any of the previous steps, remove
33 the firearm safety device during the appropriate step.

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

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

39 (VII) Manipulate the slide release or pull back and release the
40 slide.

1 (VIII) Remove the magazine.

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

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

10 (XI) Apply the safety, if applicable.

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

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

19 (I) Open the cylinder.

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

22 (III) Remove the firearm safety device. If the firearm safety
23 device prevents any of the previous steps, remove the firearm
24 safety device during the appropriate step.

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

31 (V) Close the cylinder.

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

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

35 (VIII) Apply the firearm safety device, if applicable. This
36 requirement shall not apply to an Olympic competition pistol if
37 no firearms safety device, other than a cable lock that the
38 department has determined would damage the barrel of the pistol,
39 has been approved for the pistol, and the pistol is either listed in

1 paragraph (2) of subdivision (h) of Section 12132 or is subject to
2 paragraph (3) of subdivision (h) of Section 12132.

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

4 (I) Open the loading gate.

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

7 (III) Remove the firearm safety device required to be sold with
8 the handgun. If the firearm safety device prevents any of the
9 previous steps, remove the firearm safety device during the
10 appropriate step.

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

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

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

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

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

28 (F) The firearms dealer shall sign and date an affidavit stating
29 that the requirements of subparagraph (D) have been met. The
30 firearms dealer shall additionally obtain the signature of the
31 handgun purchaser on the same affidavit. The firearms dealer shall
32 retain the original affidavit as proof of compliance with this
33 requirement.

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

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

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

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

4 (9) Commencing July 1, 1992, the licensee shall offer to provide
5 the purchaser or transferee of a firearm, or person being loaned a
6 firearm, with a copy of the pamphlet described in Section 12080
7 and may add the cost of the pamphlet, if any, to the sales price of
8 the firearm.

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

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

13 (A) All charges required by governmental agencies for
14 processing firearm transfers required by Sections 12076, 12082,
15 and 12806.

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

18 (12) The licensee shall not misstate the amount of fees charged
19 by a governmental agency pursuant to Sections 12076, 12082, and
20 12806.

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

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

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

37 (B) Secure the firearm with a hardened steel rod or cable of at
38 least one-eighth inch in diameter through the trigger guard of the
39 firearm. The steel rod or cable shall be secured with a hardened
40 steel lock that has a shackle. The lock and shackle shall be

1 protected or shielded from the use of a boltcutter and the rod or
2 cable shall be anchored in a manner that prevents the removal of
3 the firearm from the premises.

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

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

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

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

18 (18) (A) On the date of receipt, the licensee shall report to the
19 Department of Justice in a format prescribed by the department
20 the acquisition by the licensee of the ownership of a pistol,
21 revolver, or other firearm capable of being concealed upon the
22 person.

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

25 (i) A transaction subject to the provisions of subdivision (n) of
26 Section 12078.

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

28 (iii) The dealer acquired the firearm from a person who is
29 licensed as a manufacturer or importer to engage in those activities
30 pursuant to Chapter 44 (commencing with Section 921) of Title
31 18 of the United States Code and any regulations issued pursuant
32 thereto.

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

37 (19) The licensee shall forward in a format prescribed by the
38 Department of Justice, information as required by the department
39 on any firearm that is not delivered within the time period set forth

1 in Section 478.102 (c) of Title 27 of the Code of Federal
2 Regulations.

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

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

12 (C) If the local jurisdiction requires a background check of the
13 agents or employees of the firearms dealer, the agent or employee
14 shall obtain a certificate of eligibility pursuant to subparagraph
15 (A).

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

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

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

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

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

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

39 (I) The firearm is inoperable because it is secured by a firearms
40 safety device listed on the department’s roster of approved firearms

1 safety devices pursuant to subdivision (d) of Section 12088 of this
2 chapter.

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

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

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

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

18 (A) A valid California driver’s license.

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

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

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

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

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

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

33 (B) All windows are covered with steel bars.

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

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

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

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

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

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

5 (A) A “firearms transaction record” is a record containing the
6 same information referred to in subdivision (a) of Section 478.124,
7 Section 478.124a, and subdivision (e) of Section 478.125 of Title
8 27 of the Code of Federal Regulations.

9 (B) A licensee shall be in compliance with the provisions of
10 paragraph (17) of subdivision (b) if he or she maintains and makes
11 available for inspection during business hours to any peace officer,
12 authorized local law enforcement employee, or Department of
13 Justice employee designated by the Attorney General, upon the
14 presentation of proper identification, the bound book containing
15 the same information referred to in Section 478.124a and
16 subdivision (e) of Section 478.125 of Title 27 of the Code of
17 Federal Regulations and the records referred to in subdivision (a)
18 of Section 478.124 of Title 27 of the Code of Federal Regulations.

19 (d) Upon written request from a licensee, the licensing authority
20 may grant an exemption from compliance with the requirements
21 of paragraph (14) of subdivision (b) if the licensee is unable to
22 comply with those requirements because of local ordinances,
23 covenants, lease conditions, or similar circumstances not under
24 the control of the licensee.

25 (e) (1) Except as otherwise provided in this paragraph, the
26 Department of Justice shall keep a centralized list of all persons
27 licensed pursuant to subparagraphs (A) to (E), inclusive, of
28 paragraph (1) of subdivision (a). The department may remove from
29 this list any person who knowingly or with gross negligence
30 violates this article. Upon removal of a dealer from this list,
31 notification shall be provided to local law enforcement and
32 licensing authorities in the jurisdiction where the dealer’s business
33 is located.

34 (2) The department shall remove from the centralized list any
35 person whose federal firearms license has expired or has been
36 revoked.

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

39 (A) For law enforcement purposes.

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

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

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

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

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

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

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined

1 in subdivision (e), and the number of dealers found to have violated
2 this article with knowledge or gross negligence.

3 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
4 a licensee organized as a nonprofit public benefit or mutual benefit
5 corporation organized pursuant to Part 2 (commencing with Section
6 5110) or Part 3 (commencing with Section 7110) of Division 2 of
7 the Corporations Code, if both of the following conditions are
8 satisfied:

9 (1) The nonprofit public benefit or mutual benefit corporation
10 obtained the dealer's license solely and exclusively to assist that
11 corporation or local chapters of that corporation in conducting
12 auctions or similar events at which firearms are auctioned off to
13 fund the activities of that corporation or the local chapters of the
14 corporation.

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

17 SEC. 5. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.