

AMENDED IN ASSEMBLY AUGUST 24, 2009

AMENDED IN ASSEMBLY JUNE 23, 2009

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 21636, 21637, 21638, and 21643 of, to amend, repeal, and add 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 that 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, on and after July 1, 2010, establish separate reporting procedures for secondhand dealers in connection with firearms. The bill would make other conforming changes.

By establishing new 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, a dealer report to the Department of Justice in a format prescribed by the department the acquisition by the dealer of the ownership of a handgun. Existing law exempts from those provisions a firearms dealer who is also licensed as a secondhand dealer.

This bill would provide that the exemption applies to a firearms dealer who is also licensed as a secondhand dealer when acquiring a handgun and when complying with other applicable reporting requirements, as specified.

This bill would incorporate additional changes to Section 21628 of the Business and Professions Code proposed by AB 99, to become operative if this bill is enacted after AB 99.

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 that he or she has purchased, taken in trade,
8 taken in pawn, accepted for sale on consignment, or accepted for
9 auctioning, to the chief of police or to the sheriff, in accordance
10 with the provisions of Sections 21630 and 21633 and subdivision
11 (j) of this section. The report shall be legible, prepared in English,
12 completed where applicable, and include, but not be limited to,
13 the following information:

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

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

12 (1) A passport of the United States.

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

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

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

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

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

32 (d) A complete and reasonably accurate description of
33 nonserialized property, including, but not limited to, the following:
34 size, color, material, manufacturer's pattern name (when known),
35 owner-applied numbers and personalized inscriptions, and other
36 identifying marks or symbols. Watches need not be disassembled
37 when special skill or special tools are required to obtain the
38 required information, unless specifically requested to do so by a
39 peace officer. A special tool does not include a penknife, caseknife,
40 or similar instrument and disassembling a watch with a penknife,

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

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

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

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

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

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

24 (i) Any person who conducts business as a secondhand dealer
25 at any gun show or event, as defined in Section 478.100 of Title
26 27 of the Code of Federal Regulations, or its successor, outside
27 the jurisdiction that issued the secondhand dealer license in
28 accordance with subdivision (d) of Section 21641, may be required
29 to submit a duplicate of the transaction report prepared pursuant
30 to this section to the local law enforcement agency where the gun
31 show or event is conducted.

32 (j) (1) The Department of Justice shall, in consultation with
33 appropriate local law enforcement agencies, develop clear and
34 comprehensive descriptive categories denoting tangible personal
35 property subject to the reporting requirements of this section. These
36 categories shall be incorporated by secondhand dealers and coin
37 dealers described in Section 21626 for purposes of the reporting
38 requirements set forth herein. Any required report shall be
39 transmitted by electronic means. The Department of Justice and
40 local law enforcement agencies, in consultation with representatives

1 from the secondhand dealer and coin dealer businesses, shall
2 develop a standard format to be used statewide to transmit this
3 report electronically.

4 (2) Twelve months after the format and the categories described
5 in paragraph (1) have been developed, each secondhand dealer
6 and coin dealer shall electronically report using this format the
7 information required by this section under these reporting
8 categories. Until that time, each secondhand dealer and coin dealer
9 may either continue to report this information using existing forms
10 and procedures or may begin electronically reporting this
11 information under the reporting categories and using the format
12 described in paragraph (1) as soon as each has been developed.

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

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

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

(k) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1.5. 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 ~~which~~ *that* 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, *and, where applicable*, 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.

(6) *A Matricula Consular in addition to another item of identification bearing an address.*

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

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

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

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

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

38 (h) When a secondhand dealer complies with all of the
39 provisions of this section, he or she shall be deemed to have
40 received from the seller or pledger adequate evidence of authority

1 to sell or pledge the property for all purposes included in this
2 article, and Division 8 (commencing with Section 21000) of the
3 Financial Code.

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

7 (i) Any person who conducts business as a secondhand dealer
8 at any gun show or event, as defined in Section 478.100 of Title
9 27 of the Code of Federal Regulations, or its successor, outside
10 the jurisdiction that issued the secondhand dealer license in
11 accordance with subdivision (d) of Section 21641, may be required
12 to submit a duplicate of the transaction report prepared pursuant
13 to this section to the local law enforcement agency where the gun
14 show or event is conducted.

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

27 (2) Twelve months after the format and the categories described
28 in paragraph (1) have been developed, each secondhand dealer
29 and coin dealer shall electronically report using this format the
30 information required by this section under these reporting
31 categories. Until that time, each secondhand dealer and coin dealer
32 may either continue to report this information using existing forms
33 and procedures or may begin electronically reporting this
34 information under the reporting categories and using the format
35 described in paragraph (1) as soon as each has been developed.

36 (3) A coin dealer who engages in less than 10 transactions each
37 week in which he or she has purchased, taken in trade, taken in
38 pawn, accepted for sale or consignment, or accepted for auctioning
39 tangible personal property, shall report the information required
40 by this section under the reporting categories described in

paragraph (1) on a form developed by the Attorney General that the coin dealer shall transmit each day by facsimile transmission or by mail to the chief of police or sheriff. A transaction shall consist of not more than one item. Nothing in this section shall prohibit up to 10 transactions with the same customer per week, provided that the cumulative total per week for all customers does not exceed 10 transactions. Until that form is developed, these coin dealers shall continue to report information required by this 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) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 21628 is added to the Business and Professions Code, 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 for 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

1 legible, prepared in English, completed where applicable, and
2 include, but not be limited to, the following information:

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

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

14 (1) A passport of the United States.

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

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

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

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

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

34 (d) A complete and reasonably accurate description of
35 nonserialized property, including, but not limited to, the following:
36 size, color, material, manufacturer's pattern name (when known),
37 owner-applied numbers and personalized inscriptions, and other
38 identifying marks or symbols. Watches need not be disassembled
39 when special skill or special tools are required to obtain the
40 required information, unless specifically requested to do so by a

1 peace officer. A special tool does not include a penknife, caseknife,
2 or similar instrument and disassembling a watch with a penknife,
3 caseknife, or similar instrument does not constitute a special skill.
4 In all instances where the required information may be obtained
5 by removal of a watchband, then the watchband shall be removed.
6 The cost associated with opening the watch shall be borne by the
7 pawnbroker, secondhand dealer, or customer.

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

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

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

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

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

26 (i) Any person who conducts business as a secondhand dealer
27 at any gun show or event, as defined in Section 478.100 of Title
28 27 of the Code of Federal Regulations, or its successor, outside
29 the jurisdiction that issued the secondhand dealer license in
30 accordance with subdivision (d) of Section 21641, may be required
31 to submit a duplicate of the transaction report prepared pursuant
32 to this section to the local law enforcement agency where the gun
33 show or event is conducted.

34 (j) (1) The Department of Justice shall, in consultation with
35 appropriate local law enforcement agencies, develop clear and
36 comprehensive descriptive categories denoting tangible personal
37 property subject to the reporting requirements of this section. These
38 categories shall be incorporated by secondhand dealers and coin
39 dealers described in Section 21626 for purposes of the reporting
40 requirements set forth herein. Any required report shall be

1 transmitted by electronic means. The Department of Justice and
2 local law enforcement agencies, in consultation with representatives
3 from the secondhand dealer and coin dealer businesses, shall
4 develop a standard format to be used statewide to transmit this
5 report electronically.

6 (2) Twelve months after the format and the categories described
7 in paragraph (1) have been developed, each secondhand dealer
8 and coin dealer shall electronically report using this format the
9 information required by this section under these reporting
10 categories. Until that time, each secondhand dealer and coin dealer
11 may either continue to report this information using existing forms
12 and procedures or may begin electronically reporting this
13 information under the reporting categories and using the format
14 described in paragraph (1) as soon as each has been developed.

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

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

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

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

9 (l) This section shall become operative on July 1, 2010.

10 SEC. 2.5. Section 21628 is added to the Business and
11 Professions Code, to read:

12 21628. Every secondhand dealer or coin dealer described in
13 Section 21626 shall report daily, or on the first working day after
14 receipt or purchase of the property, on forms either approved or
15 provided at actual cost by the Department of Justice, all tangible
16 personal property, except for firearms, which he or she has
17 purchased, taken in trade, taken in pawn, accepted for sale on
18 consignment, or accepted for auctioning, to the chief of police or
19 to the sheriff, in accordance with the provisions of Sections 21630
20 and 21633 and subdivision (j) of this section. The report shall be
21 legible, prepared in English, completed where applicable, and
22 include, but not be limited to, the following information:

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

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

34 (1) A passport of the United States.

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

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

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

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

1 (6) A *Matricula Consular* in addition to another item of
2 identification bearing an address.

3 (c) A complete and reasonably accurate description of serialized
4 property, including, but not limited to, the following: serial number
5 and other identifying marks or symbols, owner-applied numbers,
6 manufacturer's named brand, and model name or number. Watches
7 need not be disassembled when special skill or special tools are
8 required to obtain the required information, unless specifically
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14 watchband, then the watchband shall be removed. The cost
15 associated with opening the watch shall be borne by the
16 pawnbroker, secondhand dealer, or customer.

17 (d) A complete and reasonably accurate description of
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21 identifying marks or symbols. Watches need not be disassembled
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27 In all instances where the required information may be obtained
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29 The cost associated with opening the watch shall be borne by the
30 pawnbroker, secondhand dealer, or customer.

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

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

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

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

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

10 (i) Any person who conducts business as a secondhand dealer
11 at any gun show or event, as defined in Section 478.100 of Title
12 27 of the Code of Federal Regulations, or its successor, outside
13 the jurisdiction that issued the secondhand dealer license in
14 accordance with subdivision (d) of Section 21641, may be required
15 to submit a duplicate of the transaction report prepared pursuant
16 to this section to the local law enforcement agency where the gun
17 show or event is conducted.

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

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

39 (3) A coin dealer who engages in less than 10 transactions each
40 week in which he or she has purchased, taken in trade, taken in

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

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

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

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

33 (l) This section shall become operative on July 1, 2010.

34 SEC. 3. Section 21628.1 of the Business and Professions Code
35 is amended to read:

36 21628.1. (a) Notwithstanding Section 21628, except for
37 firearms, submission of transaction reports are not required to be
38 submitted to the local law enforcement agency if the report of an
39 acquisition of the same property from the same customer has been
40 submitted within the preceding 12 months, except when submission

1 of the reports is specifically requested in writing by the local
2 licensing authority.

3 (b) This section shall become inoperative on July 1, 2010, and,
4 as of January 1, 2011, is repealed, unless a later enacted statute,
5 that becomes operative on or before January 1, 2011, deletes or
6 extends the dates on which it becomes inoperative and is repealed.

7 SEC. 4. Section 21628.1 is added to the Business and
8 Professions Code, to read:

9 21628.1. (a) Notwithstanding Section 21628, submission of
10 transaction reports are not required to be submitted to the local
11 law enforcement agency if the report of an acquisition of the same
12 property from the same customer has been submitted within the
13 preceding 12 months, except when submission of the reports is
14 specifically requested in writing by the local licensing authority.

15 (b) This section shall become operative on July 1, 2010.

16 SEC. 5. Section 21628.2 is added to the Business and
17 Professions Code, to read:

18 21628.2. (a) For purposes of this section, the “department”
19 shall mean the Department of Justice.

20 (b) Every secondhand dealer described in Section 21626 shall,
21 in a format prescribed by the department, and on the day of the
22 transaction, electronically report to the department each firearm
23 purchased, taken in trade, taken in pawn, accepted for sale on
24 consignment, or accepted for auctioning. The secondhand dealer
25 shall retain a copy of the report submitted to the department and
26 make it available for inspection by the department, any peace
27 officer, or any local law enforcement employee who is authorized
28 by Section 12071 of the Penal Code to inspect a firearms
29 transaction record.

30 (c) The department may retain secondhand dealer reports to
31 determine whether a firearm taken in by a secondhand dealer has
32 been reported lost or stolen. If the department’s records indicate
33 that the firearm is lost or stolen, the department shall notify the
34 law enforcement agency that entered the information in the
35 department’s records and a law enforcement agency with
36 jurisdiction over the secondhand dealer’s business location about
37 the status of the firearm. The Dealers’ Record of Sale shall be
38 retained by the department pursuant to paragraph (1) of subdivision
39 (b) of Section 11106 of the Penal Code.

1 (d) All information in the secondhand dealer report of each
2 firearm described in subdivision (a) shall be electronically provided
3 by the department to the secure mailbox of the local law
4 enforcement agency described in Section 21630 within one working
5 day of receipt by the department.

6 (e) This section shall become operative on July 1, 2010.

7 SEC. 6. Section 21636 of the Business and Professions Code
8 is amended to read:

9 21636. (a) Every secondhand dealer and coin dealer shall retain
10 in his or her possession for a period of 30 days all tangible personal
11 property reported under Sections 21628, 21629, and 21630, and
12 commencing July 1, 2010, Section 21628.2. The 30-day holding
13 period with respect to this tangible personal property shall
14 commence with the date the report of its acquisition was made to
15 the chief of police or to the sheriff by the secondhand dealer and
16 coin dealer. The chief of police or the sheriff may for good cause,
17 as specified by the Department of Justice, or the Department of
18 Justice may for good cause authorize prior disposition of any
19 property described in a specific report, provided that a secondhand
20 dealer who disposes of tangible personal property pursuant to that
21 authorization shall report the sale thereof to the chief of police or
22 the sheriff or the Department of Justice.

23 (b) During the 30-day holding period specified in subdivision
24 (a) every secondhand dealer and coin dealer shall produce any
25 tangible personal property reported under Sections 21628, 21629,
26 and 21630, and commencing July 1, 2010, Section 21628.2, for
27 inspection by any peace officer or employee designated by the
28 chief of police or sheriff or the Department of Justice.

29 (c) Property subject to inspection as specified in subdivision
30 (b) and property held in pawn, which is stored off the business
31 premises of the licensee, shall, upon request for inspection, be
32 produced at the licensee's business premises within one business
33 day of a request.

34 (d) Any person who conducts business as a secondhand dealer
35 at any gun show or event, as defined in Section 478.100 of Title
36 27 of the Code of Federal Regulations, or its successor, outside
37 the jurisdiction that issued the secondhand dealer license in
38 accordance with subdivision (d) of Section 21641, may be required
39 to submit for inspection, as specified in subdivision (b), any firearm
40 acquired at a gun show or event within 48 hours of the request of

1 the local law enforcement agency in the jurisdiction where the gun
2 show or event was conducted at a location specified by the local
3 law enforcement agency.

4 SEC. 7. Section 21637 of the Business and Professions Code
5 is amended to read:

6 21637. Nothing herein contained shall be deemed to excuse
7 compliance with the provisions of any city, county, or city and
8 county ordinance or any other state law pertaining to or covering
9 the reporting, holding, or releasing of tangible personal property,
10 not inconsistent with the provisions of this article, except that no
11 city, county, or city and county or any other state agency shall
12 adopt the following:

13 (a) Holding, reporting, or identification requirements for
14 transactions involving coins, monetized bullion, or commercial
15 grade ingots of gold, silver, or other precious metals.

16 (b) Identification, holding, or reporting requirements for the
17 acquisition of tangible personal property, in the ordinary course
18 of business, by pawnbrokers and secondhand dealers, other than
19 as set forth in Sections 21628, 21630, 21633, and 21636 of this
20 code, and commencing July 1, 2010, Section 21628.2 of this code,
21 and Section 21208 of the Financial Code.

22 SEC. 8. Section 21638 of the Business and Professions Code
23 is amended to read:

24 21638. The provisions of this article shall not prohibit
25 enactment, amendment, or enforcement by any city, county, or
26 city and county of any local ordinance relating to a secondhand
27 dealer or coin dealer which is not inconsistent with the provisions
28 of this article, except that no city, county, or city and county, or
29 any other state agency shall adopt the following:

30 (a) Holding, reporting, or identification requirements for
31 transactions involving coins, monetized bullion, or commercial
32 grade ingots of gold, silver, or other precious metals.

33 (b) Identification, holding, or reporting requirements for the
34 acquisition of tangible personal property, in the ordinary course
35 of business, by pawnbrokers and secondhand dealers, other than
36 as set forth in Sections 21628, 21630, 21633, and 21636 of this
37 code, and commencing July 1, 2010, Section 21628.2 of this code,
38 and Section 21208 of the Financial Code.

39 SEC. 9. Section 21643 of the Business and Professions Code
40 is amended to read:

1 21643. No transactions that require reporting under Section
2 21628, or commencing July 1, 2010, Section 21628.2, shall be
3 engaged in with a minor.

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

5 12071. (a) (1) As used in this chapter, the term “licensee,”
6 “person licensed pursuant to Section 12071,” or “dealer” means a
7 person who has all of the following:

8 (A) A valid federal firearms license.

9 (B) Any regulatory or business license, or licenses, required by
10 local government.

11 (C) A valid seller’s permit issued by the State Board of
12 Equalization.

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

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

16 (F) Is among those recorded in the centralized list specified in
17 subdivision (e).

18 (2) The duly constituted licensing authority of a city, county,
19 or a city and county shall accept applications for, and may grant
20 licenses permitting, licensees to sell firearms at retail within the
21 city, county, or city and county. The duly constituted licensing
22 authority shall inform applicants who are denied licenses of the
23 reasons for the denial in writing.

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

28 (4) A person may request a certificate of eligibility from the
29 Department of Justice. The Department of Justice shall examine
30 its records and records available to the department in the National
31 Instant Criminal Background Check System in order to determine
32 if the applicant is prohibited by state or federal law from
33 possessing, receiving, owning, or purchasing a firearm and issue
34 a certificate to an applicant if the department’s records indicate
35 that the applicant is not a person who is prohibited by state or
36 federal law from possessing firearms.

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

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

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

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

9 (C) A letter from the duly constituted licensing authority having
10 primary jurisdiction for the applicant’s intended business location
11 stating that the jurisdiction does not require any form of regulatory
12 or business license or does not otherwise restrict or regulate the
13 sale of firearms.

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

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

18 (1) (A) Except as provided in subparagraphs (B) and (C), the
19 business shall be conducted only in the buildings designated in the
20 license.

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

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

38 (C) A person licensed pursuant to subdivision (a) may engage
39 in the sale and transfer of firearms other than pistols, revolvers, or
40 other firearms capable of being concealed upon the person, at

1 events specified in subdivision (g) of Section 12078, subject to
2 the prohibitions and restrictions contained in that subdivision.

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

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

11 (i) The building designated in the license.

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

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

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

19 (3) No firearm shall be delivered:

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

26 (B) Unless unloaded and securely wrapped or unloaded and in
27 a locked container.

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

31 (D) Whenever the dealer is notified by the Department of Justice
32 that the person is prohibited by state or federal law from processing,
33 owning, purchasing, or receiving a firearm. The dealer shall make
34 available to the person in the prohibited class a prohibited notice
35 and transfer form, provided by the department, stating that the
36 person is prohibited from owning or possessing a firearm, and that
37 the person may obtain from the department the reason for the
38 prohibition.

39 (4) No pistol, revolver, or other firearm or imitation thereof
40 capable of being concealed upon the person, or placard advertising

1 the sale or other transfer thereof, shall be displayed in any part of
2 the premises where it can readily be seen from the outside.

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

6 (6) The licensee shall comply with Sections 12073, 12076, and
7 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
8 (f) of Section 12072, and subdivision (a) of Section 12316.

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

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

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

31 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY
32 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
33 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
34 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
35 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE
36 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP
37 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU
38 STORED THE FIREARM IN A LOCKED CONTAINER, OR
39 LOCKED THE FIREARM WITH A LOCKING DEVICE."

1 (D) “DISCHARGING FIREARMS IN POORLY
2 VENTILATED AREAS, CLEANING FIREARMS, OR
3 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
4 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
5 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS
6 PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT
7 ALL TIMES. WASH HANDS THOROUGHLY AFTER
8 EXPOSURE.”

9 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
10 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM
11 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30
12 DAYS AFTER YOU COMPLETE THE INITIAL
13 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
14 TO GO THROUGH THE BACKGROUND CHECK PROCESS
15 A SECOND TIME IN ORDER TO TAKE PHYSICAL
16 POSSESSION OF THAT FIREARM.”

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

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

31 (B) Commencing January 1, 2003, no dealer may deliver a
32 handgun unless the person receiving the handgun presents to the
33 dealer a valid handgun safety certificate. The firearms dealer shall
34 retain a photocopy of the handgun safety certificate as proof of
35 compliance with this requirement.

36 (C) Commencing January 1, 2003, no handgun may be delivered
37 unless the purchaser, transferee, or person being loaned the firearm
38 presents documentation indicating that he or she is a California
39 resident. Satisfactory documentation shall include a utility bill
40 from within the last three months, a residential lease, a property

1 deed, or military permanent duty station orders indicating
2 assignment within this state, or other evidence of residency as
3 permitted by the Department of Justice. The firearms dealer shall
4 retain a photocopy of the documentation as proof of compliance
5 with this requirement.

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

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

18 (I) Remove the magazine.

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

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

24 (IV) Remove the firearm safety device, if applicable. If the
25 firearm safety device prevents any of the previous steps, remove
26 the firearm safety device during the appropriate step.

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

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

32 (VII) Manipulate the slide release or pull back and release the
33 slide.

34 (VIII) Remove the magazine.

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

37 (X) Lock the slide back to eject the bright orange, red, or other
38 readily identifiable dummy round. If the handgun is of a model
39 that does not allow the slide to be locked back, pull the slide back
40 and physically check the chamber to ensure that the chamber is

1 clear. If no readily identifiable dummy round is available, an empty
2 cartridge casing with an empty primer pocket may be used.

3 (XI) Apply the safety, if applicable.

4 (XII) Apply the firearm safety device, if applicable. This
5 requirement shall not apply to an Olympic competition pistol if
6 no firearms safety device, other than a cable lock that the
7 department has determined would damage the barrel of the pistol,
8 has been approved for the pistol, and the pistol is either listed in
9 paragraph (2) of subdivision (h) of Section 12132 or is subject to
10 paragraph (3) of subdivision (h) of Section 12132.

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

12 (I) Open the cylinder.

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

15 (III) Remove the firearm safety device. If the firearm safety
16 device prevents any of the previous steps, remove the firearm
17 safety device during the appropriate step.

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

24 (V) Close the cylinder.

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

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

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

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

36 (I) Open the loading gate.

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

39 (III) Remove the firearm safety device required to be sold with
40 the handgun. If the firearm safety device prevents any of the

1 previous steps, remove the firearm safety device during the
2 appropriate step.

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

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

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

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

20 (F) The firearms dealer shall sign and date an affidavit stating
21 that the requirements of subparagraph (D) have been met. The
22 firearms dealer shall additionally obtain the signature of the
23 handgun purchaser on the same affidavit. The firearms dealer shall
24 retain the original affidavit as proof of compliance with this
25 requirement.

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

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

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

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

36 (9) Commencing July 1, 1992, the licensee shall offer to provide
37 the purchaser or transferee of a firearm, or person being loaned a
38 firearm, with a copy of the pamphlet described in Section 12080
39 and may add the cost of the pamphlet, if any, to the sales price of
40 the firearm.

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

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

5 (A) All charges required by governmental agencies for
6 processing firearm transfers required by Sections 12076, 12082,
7 and 12806.

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

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

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

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

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

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

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

38 (15) The licensing authority in an unincorporated area of a
39 county or within a city may impose security requirements that are

1 more strict or are at a higher standard than those specified in
2 paragraph (14).

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

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

11 (18) (A) On the date of receipt, the licensee shall report to the
12 Department of Justice in a format prescribed by the department
13 the acquisition by the licensee of the ownership of a pistol,
14 revolver, or other firearm capable of being concealed upon the
15 person.

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

18 (i) A transaction subject to the provisions of subdivision (n) of
19 Section 12078.

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

21 (iii) The dealer acquired the firearm from a person who is
22 licensed as a manufacturer or importer to engage in those activities
23 pursuant to Chapter 44 (commencing with Section 921) of Title
24 18 of the United States Code and any regulations issued pursuant
25 thereto.

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

30 (v) Until July 1, 2010, the dealer is also licensed as a secondhand
31 dealer pursuant to Article 4 (commencing with Section 21625) of
32 Chapter 9 of Division 8 of the Business and Professions Code,
33 acquires a handgun, and reports its acquisition pursuant to Section
34 21628 of the Business and Professions Code.

35 (vi) Commencing July 1, 2010, the dealer is also licensed as a
36 secondhand dealer pursuant to Article 4 (commencing with Section
37 21625) of Chapter 9 of Division 8 of the Business and Professions
38 Code, acquires a handgun, and reports its acquisition pursuant to
39 Section 21628.2 of the Business and Professions Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (A) A “firearms transaction record” is a record containing the
11 same information referred to in subdivision (a) of Section 478.124,
12 Section 478.124a, and subdivision (e) of Section 478.125 of Title
13 27 of the Code of Federal Regulations.

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

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

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

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

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

6 (A) For law enforcement purposes.

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

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

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

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

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

30 (f) The Department of Justice may inspect dealers to ensure
31 compliance with this article. The department may assess an annual
32 fee, not to exceed one hundred fifteen dollars (\$115), to cover the
33 reasonable cost of maintaining the list described in subdivision
34 (e), including the cost of inspections. Dealers whose place of
35 business is in a jurisdiction that has adopted an inspection program
36 to ensure compliance with firearms law shall be exempt from that
37 portion of the department's fee that relates to the cost of
38 inspections. The applicant is responsible for providing evidence
39 to the department that the jurisdiction in which the business is
40 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 in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

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

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

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

SEC. 11. Section 1.5 of this bill incorporates amendments to Section 21628 of the Business and Professions Code proposed by both this bill and AB 99. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 21628 of the Business and Professions Code, and (3) this bill is enacted after AB 99, in which case Section 1 of this bill shall not become operative.

SEC. 12. Section 2.5 of this bill shall only become operative if (1) both this bill and AB 99 are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 21628 of the Business and Professions Code, and (3) this bill is enacted after AB 99, in which case Section 2 of this bill shall not become operative.

~~SEC. 11.~~

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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