

AMENDED IN ASSEMBLY APRIL 17, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 538

Introduced by Assembly Member Pan

February 20, 2013

An act to amend Sections ~~11106~~, 26384, 26405, 27600, 28000, 28160, 28210, 28215, and 34005 of, and to add Sections 26620, 27620, and 31835 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as amended, Pan. Firearms.

~~(1) Existing law generally regulates the transfer of firearms, and requires the Department of Justice to maintain a registry of information on firearms transactions, including identifying information of a person who owns or who is loaned a firearm, as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer, or reports made to the department.~~

~~This bill would require the department to update within 5 business days any change in information it maintains regarding firearm ownership.~~

~~(2)~~

~~(1) Existing law, subject to specified exceptions, makes it a crime to openly carry an exposed, unloaded handgun outside a vehicle in specified public places. Existing law exempts from this crime, in part, the open carrying of an unloaded handgun at an auction or similar event for a nonprofit public benefit or mutual benefit corporation, if the handgun is to be auctioned or sold for the nonprofit public benefit or mutual benefit corporation, and the handgun is delivered by a person licensed by existing law.~~

This bill would make technical, nonsubstantive changes to these provisions.

(3)

(2) Existing law, subject to specified exceptions, including use by a member of a club or organization organized for the purpose of practicing shooting at targets upon established target ranges while the members are using handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range, makes it a crime for a person to carry an unloaded firearm that is not a handgun outside a vehicle while in an incorporated city or city and county.

This bill would clarify that the exception applies to members of a shooting organization while the members are using firearms that are not handguns upon the target ranges and would make additional technical changes.

(4)

(3) Existing law prohibits a person from selling, leasing, or transferring a firearm unless the person is issued a license. Existing law provides for specified exemptions to that licensing requirement, including the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer or retiring peace officer, as specified.

This bill would also exempt from the licensing requirement the sale, delivery, or transfer of a firearm if made by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government, to a licensed firearms dealer, a wholesaler, or a licensed manufacturer or importer of firearms or ammunition, if specified requirements are met.

(5)

(4) Existing law imposes various other restrictions on the sale, delivery, or transfer of firearms. Existing law excludes from those provisions the sale, delivery, or transfer of firearms made to an authorized law enforcement representative of a city, county, city and county, or of the state or federal government for exclusive use by that governmental agency, if certain conditions are met. Existing law provides that within 10 days of the date a firearm is acquired by the agency, a record shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS).

This bill would require an agency that subsequently destroys that weapon to enter information that the weapon has been destroyed into the AFS via the CLETS within 10 days of destruction.

~~(6)~~

(5) Existing law provides that when neither party to a firearms transaction holds a dealer's license, the parties to the transaction are required to complete the sale, loan, or transfer of that firearm through a firearms dealer, except as specified.

This bill would exclude from those provisions the sale, delivery, or transfer of a firearm if made by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government if certain conditions are met, including that the sale, delivery, or transfer is made to a licensed firearms dealer, a wholesaler, or a licensed manufacturer, or importer of firearms or ammunition.

~~(7)~~

(6) Existing law requires the register or record of an electronic or telephonic transfer of a firearm to include specified information, including information on certain waiting period exemptions, including a dealer waiting period exemption, and requires the firearms dealer to record on the register or record the date that the firearm is delivered. A violation of those provisions is a misdemeanor.

This bill instead would require the register or record to include any applicable waiting period exemption information. By expanding the scope of a crime, the bill would impose a state-mandated local program. The bill would also require the register or record to include a statement that the Department of Justice shall furnish the purchaser with any information reported to the department relating to the purchaser's ownership of the firearm, that the purchaser is entitled to file a report of his or her acquisition of the firearm, and of instructions for accessing the department's *Internet* Web site for more information. The bill would require the firearms dealer to record his or her signature indicating delivery of the firearm, and would require the purchaser to sign the register or record on the date that the firearm is delivered to the purchaser.

~~(8)~~

(7) Existing law requires the purchaser of a firearm to present evidence to the dealer of the person's identity and age, and requires the transaction to be recorded by the dealer in a register or record of telephonic or electronic transfer. Existing law requires a dealer, upon request only, to provide a copy of the register or record of the transaction to the purchaser, and, for a private party transaction, requires the dealer, upon request, to provide the seller or purchaser with a copy of the register or record, as specified.

This bill instead would require the dealer to provide a copy of those documents to the purchaser at the time of delivery of the firearm after the dealer notes the date of delivery and the dealer and purchaser acknowledge the receipt of the firearm. The bill, for private party transactions, would require the dealer to provide a copy of the register or record to the seller at the time that the register or record is signed by the seller.

(9)

(8) Existing law prohibits a person from purchasing or receiving a handgun, except an antique firearm, without a valid handgun safety certificate, and further prohibits a person from selling, delivering, loaning, or transferring a handgun to a person who does not possess a valid handgun safety certificate, except as specified.

This bill would exclude the sale, delivery, or transfer of a firearm by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government if certain conditions are met, including that the sale, delivery, or transfer is made to one of specified persons and entities.

(10)

(9) The bill would make conforming changes, and would make a technical, nonsubstantive change to provisions relating to the delivery of a firearm to the California State Military Museum and Resources Center.

(11)

(10) 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 11106 of the Penal Code, as added by~~
 2 ~~Section 2.5 of Chapter 745 of the Statutes of 2011, is amended to~~
 3 ~~read:~~
 4 ~~11106. (a) In order to assist in the investigation of crime, the~~
 5 ~~prosecution of civil actions by city attorneys pursuant to paragraph~~
 6 ~~(3) of subdivision (c), the arrest and prosecution of criminals, and~~

1 the recovery of lost, stolen, or found property, the Attorney General
2 shall keep and properly file a complete record of all copies of
3 fingerprints, copies of licenses to carry firearms issued pursuant
4 to Section 26150, 26155, 26170, or 26215, information reported
5 to the Department of Justice pursuant to Section 26225, dealers'
6 records of sales of firearms, reports provided pursuant to Article
7 1 (commencing with Section 27500) of Chapter 4 of Division 6
8 of Title 4 of Part 6, or pursuant to any provision listed in
9 subdivision (a) of Section 16585, forms provided pursuant to
10 Section 12084, as that section read prior to being repealed, reports
11 provided pursuant to Article 1 (commencing with Section 26700)
12 and Article 2 (commencing with Section 26800) of Chapter 2 of
13 Division 6 of Title 4 of Part 6, that are not dealers' records of sales
14 of firearms, and reports of stolen, lost, found, pledged, or pawned
15 property in any city or county of this state, and shall, upon proper
16 application therefor, furnish this information to the officers referred
17 to in Section 11105.

18 ~~(b) (1) The Attorney General shall permanently keep and~~
19 ~~properly file and maintain all information reported to the~~
20 ~~Department of Justice pursuant to the following provisions as to~~
21 ~~firearms and maintain a registry thereof:~~

22 ~~(A) Article 1 (commencing with Section 26700) and Article 2~~
23 ~~(commencing with Section 26800) of Chapter 2 of Division 6 of~~
24 ~~Title 4 of Part 6.~~

25 ~~(B) Article 1 (commencing with Section 27500) of Chapter 4~~
26 ~~of Division 6 of Title 4 of Part 6.~~

27 ~~(C) Chapter 5 (commencing with Section 28050) of Division 6~~
28 ~~of Title 4 of Part 6.~~

29 ~~(D) Any provision listed in subdivision (a) of Section 16585.~~

30 ~~(E) Former Section 12084.~~

31 ~~(F) Any other law.~~

32 ~~(2) The registry shall consist of all of the following:~~

33 ~~(A) The name, address, identification of, place of birth (state~~
34 ~~or country), complete telephone number, occupation, sex,~~
35 ~~description, and all legal names and aliases ever used by the owner~~
36 ~~or person being loaned the particular firearm as listed on the~~
37 ~~information provided to the department on the Dealers' Record of~~
38 ~~Sale, the Law Enforcement Firearms Transfer (LEFT), as defined~~
39 ~~in former Section 12084, or reports made to the department~~

1 pursuant to any provision listed in subdivision (a) of Section 16585
2 or any other law.

3 ~~(B) The name and address of, and other information about, any
4 person (whether a dealer or a private party) from whom the owner
5 acquired or the person being loaned the particular firearm and
6 when the firearm was acquired or loaned as listed on the
7 information provided to the department on the Dealers' Record of
8 Sale, the LEFT, or reports made to the department pursuant to any
9 provision listed in subdivision (a) of Section 16585 or any other
10 law.~~

11 ~~(C) Any waiting period exemption applicable to the transaction
12 which resulted in the owner of or the person being loaned the
13 particular firearm acquiring or being loaned that firearm.~~

14 ~~(D) The manufacturer's name if stamped on the firearm, model
15 name or number if stamped on the firearm, and, if applicable, the
16 serial number, other number (if more than one serial number is
17 stamped on the firearm), caliber, type of firearm, if the firearm is
18 new or used, barrel length, and color of the firearm, or, if the
19 firearm is not a handgun and does not have a serial number or any
20 identification number or mark assigned to it, that shall be noted.~~

21 ~~(3) Information in the registry referred to in this subdivision
22 shall, upon proper application therefor, be furnished to the officers
23 referred to in Section 11105, to a city attorney prosecuting a civil
24 action, solely for use in prosecuting that civil action and not for
25 any other purpose, or to the person listed in the registry as the
26 owner or person who is listed as being loaned the particular firearm.~~

27 ~~(4) If any person is listed in the registry as the owner of a firearm
28 through a Dealers' Record of Sale prior to 1979, and the person
29 listed in the registry requests by letter that the Attorney General
30 store and keep the record electronically, as well as in the record's
31 existing photographic, photostatic, or nonerasable optically stored
32 form, the Attorney General shall do so within three working days
33 of receipt of the request. The Attorney General shall, in writing,
34 and as soon as practicable, notify the person requesting electronic
35 storage of the record that the request has been honored as required
36 by this paragraph.~~

37 ~~(e) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
38 of subdivision (b) of Section 11105 may disseminate the name of
39 the subject of the record, the number of the firearms listed in the
40 record, and the description of any firearm, including the make,~~

1 model, and caliber, from the record relating to any firearm's sale,
2 transfer, registration, or license record, or any information reported
3 to the Department of Justice pursuant to Section 26225, Article 1
4 (commencing with Section 26700) and Article 2 (commencing
5 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part
6 6, Article 1 (commencing with Section 27500) of Chapter 4 of
7 Division 6 of Title 4 of Part 6, Chapter 5 (commencing with
8 Section 28050) of Division 6 of Title 4 of Part 6, Article 2
9 (commencing with Section 28150) of Chapter 6 of Division 6 of
10 Title 4 of Part 6, Article 5 (commencing with Section 30900) of
11 Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2
12 (commencing with Section 33850) of Division 11 of Title 4 of Part
13 6, or any provision listed in subdivision (a) of Section 16585, if
14 the following conditions are met:

15 (A) The subject of the record has been arraigned for a crime in
16 which the victim is a person described in subdivisions (a) to (f),
17 inclusive, of Section 6211 of the Family Code and is being
18 prosecuted or is serving a sentence for the crime, or the subject of
19 the record is the subject of an emergency protective order, a
20 temporary restraining order, or an order after hearing, which is in
21 effect and has been issued by a family court under the Domestic
22 Violence Protection Act set forth in Division 10 (commencing
23 with Section 6200) of the Family Code.

24 (B) The information is disseminated only to the victim of the
25 crime or to the person who has obtained the emergency protective
26 order, the temporary restraining order, or the order after hearing
27 issued by the family court.

28 (C) Whenever a law enforcement officer disseminates the
29 information authorized by this subdivision, that officer or another
30 officer assigned to the case shall immediately provide the victim
31 of the crime with a "Victims of Domestic Violence" card, as
32 specified in subparagraph (H) of paragraph (9) of subdivision (e)
33 of Section 13701.

34 (2) The victim or person to whom information is disseminated
35 pursuant to this subdivision may disclose it as he or she deems
36 necessary to protect himself or herself or another person from
37 bodily harm by the person who is the subject of the record.

38 (d) The department shall update within five business days any
39 change in information the department maintains pursuant to this

1 ~~section regarding firearms ownership in order to maintain the~~
2 ~~accuracy of that information.~~

3 ~~SEC. 2.~~

4 *SECTION 1.* Section 26384 of the Penal Code is amended to
5 read:

6 26384. Paragraph (1) of subdivision (a) of Section 26350 does
7 not apply to, or affect, the open carrying of an unloaded handgun
8 if all of the following conditions are satisfied:

9 (a) The open carrying occurs at an auction or similar event of
10 a nonprofit public benefit or mutual benefit corporation, at which
11 firearms are auctioned or otherwise sold to fund the activities of
12 that corporation or the local chapters of that corporation.

13 (b) The unloaded handgun is to be auctioned or otherwise sold
14 for that nonprofit public benefit or mutual benefit corporation.

15 (c) The unloaded handgun is to be delivered by a person licensed
16 pursuant to, and operating in accordance with, Sections 26700 to
17 26915, inclusive.

18 ~~SEC. 3.~~

19 *SEC. 2.* Section 26405 of the Penal Code is amended to read:

20 26405. Section 26400 does not apply to, or affect, the carrying
21 of an unloaded firearm that is not a handgun in any of the following
22 circumstances:

23 (a) By a person when carried within a place of business, a place
24 of residence, or on private real property, if that person, by virtue
25 of subdivision (a) of Section 25605, may carry a firearm within
26 that place of business, place of residence, or on that private real
27 property owned or lawfully occupied by that person.

28 (b) By a person when carried within a place of business, a place
29 of residence, or on private real property, if done with the
30 permission of a person who, by virtue of subdivision (a) of Section
31 25605, may carry a firearm within that place of business, place of
32 residence, or on that private real property owned or lawfully
33 occupied by that person.

34 (c) When the firearm is either in a locked container or encased
35 and it is being transported directly between places where a person
36 is not prohibited from possessing that firearm and the course of
37 travel shall include only those deviations between authorized
38 locations as are reasonably necessary under the circumstances.

39 (d) If the person possessing the firearm reasonably believes that
40 he or she is in grave danger because of circumstances forming the

1 basis of a current restraining order issued by a court against another
2 person or persons who has or have been found to pose a threat to
3 his or her life or safety. This subdivision may not apply when the
4 circumstances involve a mutual restraining order issued pursuant
5 to Division 10 (commencing with Section 6200) of the Family
6 Code absent a factual finding of a specific threat to the person's
7 life or safety. Upon a trial for violating Section 26400, the trier of
8 fact shall determine whether the defendant was acting out of a
9 reasonable belief that he or she was in grave danger.

10 (e) By a peace officer or an honorably retired peace officer if
11 that officer may carry a concealed firearm pursuant to Article 2
12 (commencing with Section 25450) of Chapter 2, or a loaded firearm
13 pursuant to Article 3 (commencing with Section 25900) of Chapter
14 3.

15 (f) By a person to the extent that person may openly carry a
16 loaded firearm that is not a handgun pursuant to Article 4
17 (commencing with Section 26000) of Chapter 3.

18 (g) As merchandise by a person who is engaged in the business
19 of manufacturing, importing, wholesaling, repairing, or dealing in
20 firearms and who is licensed to engage in that business, or the
21 authorized representative or authorized agent of that person, while
22 engaged in the lawful course of the business.

23 (h) By a duly authorized military or civil organization, or the
24 members thereof, while parading or while rehearsing or practicing
25 parading, when at the meeting place of the organization.

26 (i) By a member of a club or organization organized for the
27 purpose of practicing shooting at targets upon established target
28 ranges, whether public or private, while the members are using
29 firearms that are not handguns upon the target ranges or incident
30 to the use of a firearm that is not a handgun at that target range.

31 (j) By a licensed hunter while engaged in hunting or while
32 transporting that firearm when going to or returning from that
33 hunting expedition.

34 (k) Incident to transportation of a handgun by a person operating
35 a licensed common carrier, or by an authorized agent or employee
36 thereof, when transported in conformance with applicable federal
37 law.

38 (l) By a member of an organization chartered by the Congress
39 of the United States or a nonprofit mutual or public benefit
40 corporation organized and recognized as a nonprofit tax-exempt

1 organization by the Internal Revenue Service while on official
2 parade duty or ceremonial occasions of that organization or while
3 rehearsing or practicing for official parade duty or ceremonial
4 occasions.

5 (m) Within a gun show conducted pursuant to Article 1
6 (commencing with Section 27200) and Article 2 (commencing
7 with Section 27300) of Chapter 3 of Division 6.

8 (n) Within a school zone, as defined in Section 626.9, with the
9 written permission of the school district superintendent, the
10 superintendent's designee, or equivalent school authority.

11 (o) When in accordance with the provisions of Section 171b.

12 (p) By a person while engaged in the act of making or attempting
13 to make a lawful arrest.

14 (q) By a person engaged in firearms-related activities, while on
15 the premises of a fixed place of business that is licensed to conduct
16 and conducts, as a regular course of its business, activities related
17 to the sale, making, repair, transfer, pawn, or the use of firearms,
18 or related to firearms training.

19 (r) By an authorized participant in, or an authorized employee
20 or agent of a supplier of firearms for, a motion picture, television,
21 or video production or entertainment event, when the participant
22 lawfully uses that firearm as part of that production or event, as
23 part of rehearsing or practicing for participation in that production
24 or event, or while the participant or authorized employee or agent
25 is at that production or event, or rehearsal or practice for that
26 production or event.

27 (s) Incident to obtaining an identification number or mark
28 assigned for that firearm from the Department of Justice pursuant
29 to Section 23910.

30 (t) At an established public target range while the person is
31 using that firearm upon that target range.

32 (u) By a person when that person is summoned by a peace
33 officer to assist in making arrests or preserving the peace, while
34 the person is actually engaged in assisting that officer.

35 (v) Incident to any of the following:

36 (1) Complying with Section 27560 or 27565, as it pertains to
37 that firearm.

38 (2) Section 28000, as it pertains to that firearm.

39 (3) Section 27850 or 31725, as it pertains to that firearm.

1 (4) Complying with Section 27870 or 27875, as it pertains to
2 that firearm.

3 (5) Complying with Section 27915, 27920, or 27925, as it
4 pertains to that firearm.

5 (w) Incident to, and in the course and scope of, training of, or
6 by an individual to become a sworn peace officer as part of a course
7 of study approved by the Commission on Peace Officer Standards
8 and Training.

9 (x) Incident to, and in the course and scope of, training of, or
10 by an individual to become licensed pursuant to Chapter 4
11 (commencing with Section 26150) as part of a course of study
12 necessary or authorized by the person authorized to issue the
13 license pursuant to that chapter.

14 (y) Incident to and at the request of a sheriff, chief, or other
15 head of a municipal police department.

16 (z) If all of the following conditions are satisfied:

17 (1) The open carrying occurs at an auction or similar event of
18 a nonprofit public benefit or mutual benefit corporation at which
19 firearms are auctioned or otherwise sold to fund the activities of
20 that corporation or the local chapters of that corporation.

21 (2) The unloaded firearm that is not a handgun is to be auctioned
22 or otherwise sold for that nonprofit public benefit or mutual benefit
23 corporation.

24 (3) The unloaded firearm that is not a handgun is to be delivered
25 by a person licensed pursuant to, and operating in accordance with,
26 Sections 26700 to 26915, inclusive.

27 (aa) Pursuant to paragraph (3) of subdivision (b) of Section
28 171c.

29 (ab) Pursuant to Section 171d.

30 (ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision
31 (c) of Section 171.7.

32 (ad) On publicly owned land, if the possession and use of *an*
33 unloaded firearm that is not a handgun is specifically permitted
34 by the managing agency of the land and the person carrying that
35 firearm is in lawful possession of that firearm.

36 (ae) By any of the following:

37 (1) The carrying of an unloaded firearm that is not a handgun
38 that is regulated pursuant to Chapter 1 (commencing with Section
39 18710) of Division 5 of Title 2 by a person who holds a permit
40 issued pursuant to Article 3 (commencing with Section 18900) of

1 that chapter, if the carrying of that firearm is conducted in
2 accordance with the terms and conditions of the permit.

3 (2) The carrying of an unloaded firearm that is not a handgun
4 that is regulated pursuant to Chapter 2 (commencing with Section
5 30500) of Division 10 by a person who holds a permit issued
6 pursuant to Section 31005, if the carrying of that firearm is
7 conducted in accordance with the terms and conditions of the
8 permit.

9 (3) The carrying of an unloaded firearm that is not a handgun
10 that is regulated pursuant to Chapter 6 (commencing with Section
11 32610) of Division 10 by a person who holds a permit issued
12 pursuant to Section 32650, if the carrying of that firearm is
13 conducted in accordance with the terms and conditions of the
14 permit.

15 (4) The carrying of an unloaded firearm that is not a handgun
16 that is regulated pursuant to Article 2 (commencing with Section
17 33300) of Chapter 8 of Division 10 by a person who holds a permit
18 issued pursuant to Section 33300, if the carrying of that firearm is
19 conducted in accordance with the terms and conditions of the
20 permit.

21 (af) By a licensed hunter while actually engaged in training a
22 dog for the purpose of using the dog in hunting that is not
23 prohibited by law, or while transporting the firearm while going
24 to or returning from that training.

25 (ag) Pursuant to the provisions of subdivision (d) of Section
26 171.5.

27 (ah) By a person who is engaged in the business of
28 manufacturing ammunition and who is licensed to engage in that
29 business, or the authorized representative or authorized agent of
30 that person, while the firearm is being used in the lawful course
31 and scope of the licensee’s activities as a person licensed pursuant
32 to Chapter 44 (commencing with Section 921) of Title 18 of the
33 United States Code and regulations issued pursuant thereto.

34 (ai) On the navigable waters of this state that are held in public
35 trust, if the possession and use of an unloaded firearm that is not
36 a handgun is not prohibited by the managing agency thereof and
37 the person carrying the firearm is in lawful possession of the
38 firearm.

39 ~~SEC. 4.~~

40 SEC. 3. Section 26620 is added to the Penal Code, to read:

1 26620. Section 26500 does not apply to the sale, delivery, or
2 transfer of a firearm when made by an authorized law enforcement
3 representative of a city, county, city and county, or of the state or
4 federal government, if both of the following requirements are met:

5 (a) The sale, delivery, or transfer is made to one of the following:

6 (1) A person licensed pursuant to Sections 26700 to 26915,
7 inclusive.

8 (2) A wholesaler.

9 (3) A manufacturer or importer of firearms or ammunition
10 licensed to engage in that business pursuant to Chapter 44
11 (commencing with Section 921) of Title 18 of the United States
12 Code and the regulations issued pursuant thereto.

13 (b) The sale, delivery, or transfer of the firearm is not subject
14 to the procedures set forth in Section 18000, 18005, 34000, or
15 34005.

16 ~~SEC. 5.~~

17 *SEC. 4.* Section 27600 of the Penal Code is amended to read:

18 27600. (a) Article 1 (commencing with Section 27500) does
19 not apply to any sale, delivery, or transfer of firearms made to an
20 authorized law enforcement representative of any city, county,
21 city and county, or state, or of the federal government, for exclusive
22 use by that governmental agency if, prior to the sale, delivery, or
23 transfer of these firearms, written authorization from the head of
24 the agency authorizing the transaction is presented to the person
25 from whom the purchase, delivery, or transfer is being made.

26 (b) Proper written authorization is defined as verifiable written
27 certification from the head of the agency by which the purchaser
28 or transferee is employed, identifying the employee as an individual
29 authorized to conduct the transaction, and authorizing the
30 transaction for the exclusive use of the agency by which that person
31 is employed.

32 (c) Within 10 days of the date a firearm is acquired by the
33 agency, a record of the same shall be entered as an institutional
34 weapon into the Automated Firearms System (AFS) via the
35 California Law Enforcement Telecommunications System
36 (CLETS) by the law enforcement or state agency. Any agency
37 without access to *the* AFS shall arrange with the sheriff of the
38 county in which the agency is located to input this information via
39 this system.

1 (d) Any agency that is the registered owner of an institutional
2 weapon in accordance with subdivision (c) that subsequently
3 destroys that weapon shall enter information that the weapon has
4 been destroyed into the Automated Firearms System (AFS) via
5 the California Law Enforcement Telecommunications System
6 (CLETS) within 10 days of the destruction in accordance with
7 procedures prescribed by the Department of Justice. Any agency
8 without access to the AFS shall arrange with the sheriff of the
9 county in which the agency is located to input this information via
10 this system.

11 ~~SEC. 6.~~

12 *SEC. 5.* Section 27620 is added to the Penal Code, to read:

13 27620. Section 27545 does not apply to the sale, delivery, or
14 transfer of a firearm when made by an authorized law enforcement
15 representative of a city, county, city and county, or of the state or
16 federal government, if all of the following conditions are met:

17 (a) The sale, delivery, or transfer is made to one of the following:

18 (1) A person licensed pursuant to Sections 26700 to 26915,
19 inclusive.

20 (2) A wholesaler.

21 (3) A manufacturer or importer of firearms or ammunition
22 licensed to engage in that business pursuant to Chapter 44
23 (commencing with Section 921) of Title 18 of the United States
24 Code and the regulations issued *pursuant* thereto.

25 (b) The sale, delivery, or transfer of the firearm is not subject
26 to the procedures set forth in Section 18000, 18005, 34000, or
27 34005.

28 (c) (1) Except as provided in paragraph (2), if the sale, delivery,
29 or transfer is of a handgun, on the date that the handgun is delivered
30 pursuant to this subdivision, by the agency, a record of the delivery
31 has been entered into the Automated Firearms System (AFS) via
32 the California Law Enforcement Telecommunications System
33 (CLETS) by the law enforcement or state agency. Those agencies
34 without access to *the* AFS shall arrange with the sheriff of the
35 county in which the agency is located to input this information via
36 this system.

37 (2) If the firearm was initially registered with the Department
38 of Justice by the agency as an institutional weapon or otherwise,
39 on the date that the weapon is delivered pursuant to this section
40 by the agency, a record of the delivery has been entered into the

1 AFS via the CLETS by the law enforcement or state agency. Those
2 agencies without access to *the* AFS shall arrange with the sheriff
3 of the county in which the agency is located to input this
4 information via this system.

5 ~~SEC. 7.~~

6 *SEC. 6.* Section 28000 of the Penal Code is amended to read:

7 28000. A person who is exempt from Section 27545 or is
8 otherwise not required by law to report acquisition, ownership,
9 destruction, or disposal of a firearm, or who moves out of this state
10 with the person's firearm, may report that information to the
11 Department of Justice in a format prescribed by the department.

12 ~~SEC. 8.~~

13 *SEC. 7.* Section 28160 of the Penal Code is amended to read:

14 28160. (a) For all firearms, the register or record of electronic
15 transfer shall include all of the following information:

16 (1) The date and time of sale.

17 (2) The make of firearm.

18 (3) Peace officer exemption status pursuant to the provisions
19 listed in subdivision (c) of Section 16585, and the agency name.

20 (4) Any applicable waiting period exemption information.

21 (5) California Firearms Dealer number issued pursuant to Article
22 1 (commencing with Section 26700) of Chapter 2.

23 (6) For transactions occurring on or after January 1, 2003, the
24 purchaser's handgun safety certificate number issued pursuant to
25 Article 2 (commencing with Section 31610) of Chapter 4 of
26 Division 10 of this title, or pursuant to former Article 8
27 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
28 4, as that article read at any time from when it became operative
29 on January 1, 2003, to when it was repealed by the Deadly
30 Weapons Recodification Act of 2010.

31 (7) Manufacturer's name if stamped on the firearm.

32 (8) Model name or number, if stamped on the firearm.

33 (9) Serial number, if applicable.

34 (10) Other number, if more than one serial number is stamped
35 on the firearm.

36 (11) Any identification number or mark assigned to the firearm
37 pursuant to Section 23910.

38 (12) If the firearm is not a handgun and does not have a serial
39 number, identification number, or mark assigned to it, a notation
40 as to that fact.

- 1 (13) Caliber.
- 2 (14) Type of firearm.
- 3 (15) If the firearm is new or used.
- 4 (16) Barrel length.
- 5 (17) Color of the firearm.
- 6 (18) Full name of purchaser.
- 7 (19) Purchaser's complete date of birth.
- 8 (20) Purchaser's local address.
- 9 (21) If current address is temporary, complete permanent address
- 10 of purchaser.
- 11 (22) Identification of purchaser.
- 12 (23) Purchaser's place of birth (state or country).
- 13 (24) Purchaser's complete telephone number.
- 14 (25) Purchaser's occupation.
- 15 (26) Purchaser's gender.
- 16 (27) Purchaser's physical description.
- 17 (28) All legal names and aliases ever used by the purchaser.
- 18 (29) Yes or no answer to questions that prohibit purchase,
- 19 including, but not limited to, conviction of a felony as described
- 20 in Chapter 2 (commencing with Section 29800) or an offense
- 21 described in Chapter 3 (commencing with Section 29900) of
- 22 Division 9 of this title, the purchaser's status as a person described
- 23 in Section 8100 of the Welfare and Institutions Code, whether the
- 24 purchaser is a person who has been adjudicated by a court to be a
- 25 danger to others or found not guilty by reason of insanity, and
- 26 whether the purchaser is a person who has been found incompetent
- 27 to stand trial or placed under conservatorship by a court pursuant
- 28 to Section 8103 of the Welfare and Institutions Code.
- 29 (30) Signature of purchaser.
- 30 (31) Signature of salesperson, as a witness to the purchaser's
- 31 signature.
- 32 (32) Salesperson's certificate of eligibility number, if the
- 33 salesperson has obtained a certificate of eligibility.
- 34 (33) Name and complete address of the dealer or firm selling
- 35 the firearm as shown on the dealer's license.
- 36 (34) The establishment number, if assigned.
- 37 (35) The dealer's complete business telephone number.
- 38 (36) Any information required by Chapter 5 (commencing with
- 39 Section 28050).

1 (37) Any information required to determine whether subdivision
2 (f) of Section 27540 applies.

3 (38) A statement of the penalties for signing a fictitious name
4 or address, knowingly furnishing any incorrect information, or
5 knowingly omitting any information required to be provided for
6 the register.

7 (39) A statement informing the purchaser, after his or her
8 ownership of a firearm, of all of the following:

9 (A) Upon his or her application, the Department of Justice shall
10 furnish him or her any information reported to the department as
11 it relates to his or her ownership of that firearm.

12 (B) The purchaser is entitled to file a report of his or her
13 acquisition, disposition, or ownership of a firearm with the
14 department pursuant to Section 28000.

15 (C) Instructions for accessing the department's Internet Web
16 site for more information.

17 (b) The purchaser shall provide the purchaser's right thumbprint
18 on the register in a manner prescribed by the department. No
19 exception to this requirement shall be permitted except by
20 regulations adopted by the department.

21 (c) The firearms dealer shall record on the register or record of
22 electronic transfer the date that the firearm is delivered, together
23 with the firearm dealer's signature indicating delivery of the
24 firearm.

25 (d) The purchaser shall sign the register or the record of
26 electronic or telephonic transfer on the date that the firearm is
27 delivered to him or her.

28 ~~SEC. 9.~~

29 *SEC. 8.* Section 28210 of the Penal Code is amended to read:

30 28210. (a) (1) Where the register is used, the purchaser of
31 any firearm shall be required to present to the dealer clear evidence
32 of the person's identity and age.

33 (2) The dealer shall require the purchaser to sign the purchaser's
34 current legal name and affix the purchaser's residence address and
35 date of birth to the register in quadruplicate.

36 (3) The salesperson shall sign the register in quadruplicate, as
37 a witness to the signature and identification of the purchaser.

38 (b) Any person furnishing a fictitious name or address,
39 knowingly furnishing any incorrect information, or knowingly

1 omitting any information required to be provided for the register
2 shall be punished as provided in Section 28250.

3 (c) (1) The original of the register shall be retained by the dealer
4 in consecutive order.

5 (2) Each book of 50 originals shall become the permanent
6 register of transactions, which shall be retained for not less than
7 three years from the date of the last transaction.

8 (3) Upon presentation of proper identification, the permanent
9 register of transactions shall be available for inspection by any
10 peace officer, Department of Justice employee designated by the
11 Attorney General, or agent of the federal Bureau of Alcohol,
12 Tobacco, Firearms and Explosives. Until January 1, 2014, no
13 information shall be compiled therefrom regarding the purchasers
14 or other transferees of firearms that are not handguns.

15 (d) On the date of the application to purchase, two copies of the
16 original sheet of the register shall be placed in the mail, postage
17 prepaid, and properly addressed to the Department of Justice.

18 (e) (1) A photocopy of the register shall be provided to the
19 purchaser by the dealer at the time of delivery of the firearm and
20 after the dealer notes the date of delivery and the purchaser
21 acknowledges the receipt of the firearm.

22 (2) The requirements of this subdivision apply if a dealer is
23 delivering a firearm pursuant to Section 27540 or Chapter 5
24 (commencing with Section 28050).

25 (f) If the transaction is a private party transfer conducted
26 pursuant to Chapter 5 (commencing with Section 28050), a
27 photocopy of the original shall be provided to the seller by the
28 dealer at the time the register is signed by the seller. The dealer
29 shall redact all of the purchaser's personal information, as required
30 pursuant to subdivision (a) of Section 28160 and subdivision (a)
31 of Section 28165, from the seller's copy, and the seller's personal
32 information from the purchaser's copy.

33 ~~SEC. 10.~~

34 *SEC. 9.* Section 28215 of the Penal Code is amended to read:

35 28215. (a) (1) Where the electronic or telephonic transfer of
36 applicant information is used, the purchaser shall be required to
37 present to the dealer clear evidence of the person's identity and
38 age.

39 (2) The dealer shall require the purchaser to sign the purchaser's
40 current legal name to the record of electronic or telephonic transfer.

1 (3) The salesperson shall sign the record of electronic or
2 telephonic transfer, as a witness to the signature and identification
3 of the purchaser.

4 (b) Any person furnishing a fictitious name or address,
5 knowingly furnishing any incorrect information, or knowingly
6 omitting any information required to be provided for the electronic
7 or telephonic transfer shall be punished as provided in Section
8 28250.

9 (c) (1) The original of each record of electronic or telephonic
10 transfer shall be retained by the dealer in consecutive order.

11 (2) Each original shall become the permanent record of the
12 transaction, which shall be retained for not less than three years
13 from the date of the last transaction.

14 (3) Upon presentation of proper identification, the permanent
15 record of the transaction shall be provided for inspection by any
16 peace officer, Department of Justice employee designated by the
17 Attorney General, or agent of the federal Bureau of Alcohol,
18 Tobacco, Firearms and Explosives.

19 (d) On the date of the application to purchase, the record of
20 applicant information shall be transmitted to the Department of
21 Justice by electronic or telephonic transfer.

22 (e) (1) A copy of the record of electronic or telephonic transfer
23 shall be provided to the purchaser by the dealer at the time of
24 delivery of the firearm and after the dealer notes the date of
25 delivery and the purchaser acknowledges the receipt of the firearm.

26 (2) The requirements of this subdivision apply if a dealer is
27 delivering a firearm pursuant to Section 27540 or Chapter 5
28 (commencing with Section 28050).

29 (f) If the transaction is a private party transfer conducted
30 pursuant to Chapter 5 (commencing with Section 28050), a copy
31 shall be provided to the seller by the dealer at the time the record
32 of electronic or telephonic transfer is signed by the seller. The
33 dealer shall redact all of the purchaser's personal information, as
34 required pursuant to subdivision (a) of Section 28160 and
35 subdivision (a) of Section 28165, from the seller's copy, and the
36 seller's personal information from the purchaser's copy.

37 ~~SEC. 11.~~

38 *SEC. 10.* Section 31835 is added to the Penal Code, to read:

39 31835. Subdivision (a) of Section 31615 does not apply to the
40 delivery, sale, or transfer of firearms when made by authorized

1 law enforcement representatives for cities, counties, cities and
2 counties, or of the state or federal government, if all of the
3 following conditions are met:

4 (a) The sale, delivery, or transfer is made to one of the persons
5 or entities identified in subdivision (a) of Section 26620.

6 (b) The sale, delivery, or transfer of the firearm is not subject
7 to the procedures set forth in Section 18000, 18005, 34000, or
8 34005.

9 (c) The sale, delivery, or transfer of the firearm follows the
10 procedures set forth in subdivision (c) of Section 26620.

11 ~~SEC. 12.~~

12 *SEC. 11.* Section 34005 of the Penal Code is amended to read:

13 34005. (a) (1) An officer having custody of any firearm that
14 may be useful to the California National Guard, the Coast Guard
15 Auxiliary, or to any military or naval agency of the federal or state
16 government, including, but not limited to, the State Military
17 Museum and Resource Center, may, upon the authority of the
18 legislative body of the city, city and county, or county by which
19 the officer is employed and the approval of the Adjutant General,
20 deliver the firearm to the commanding officer of a unit of the
21 California National Guard, the Coast Guard Auxiliary, or any other
22 military agency of the state or federal government, in lieu of
23 destruction as required by any of the provisions listed in Section
24 16580.

25 (2) The officer delivering a firearm pursuant to this subdivision
26 shall take a receipt for it, which contains a complete description
27 of the firearm, and shall keep the receipt on file in his or her office
28 as a public record.

29 (b) Any law enforcement agency that has custody of any
30 firearms, or any parts of any firearms, which are subject to
31 destruction as required by any of the provisions listed in Section
32 16580, may, in lieu of destroying the weapons, retain and use any
33 of them as may be useful in carrying out the official duties of the
34 agency. Alternatively, upon approval of a court, the agency may
35 do either of the following:

36 (1) Release the weapons to any other law enforcement agency
37 for use in carrying out the official duties of that agency.

38 (2) Turn over to the criminalistics laboratory of the Department
39 of Justice or the criminalistics laboratory of a police department,
40 sheriff's office, or district attorney's office, any weapons that may

1 be useful in carrying out the official duties of the respective
2 agencies.

3 (c) (1) Any firearm, or part of any firearm, which, rather than
4 being destroyed, is used for official purposes pursuant to this
5 section, shall be destroyed by the agency using the weapon when
6 it is no longer needed by the agency for use in carrying out its
7 official duties.

8 (2) Firearms or weaponry donated to the State Military Museum
9 and Resource Center may be disposed of pursuant to Section 179
10 of the Military and Veterans Code.

11 (d) (1) Any law enforcement agency that has custody of any
12 firearms, or any parts of any firearms, which are subject to
13 destruction as required by any of the provisions listed in Section
14 16580, may, in lieu of destroying the firearms, obtain an order
15 from the superior court directing the release of the firearms to the
16 sheriff.

17 (2) The sheriff shall enter those weapons into the Automated
18 Firearms System (AFS), via the California Law Enforcement
19 Telecommunications System, with a complete description of each
20 weapon, including the make, type, category, caliber, and serial
21 number of the firearms, and the name of the academy receiving
22 the weapon entered into the AFS miscellaneous field.

23 (3) The sheriff shall then release the firearms to the basic
24 training academy certified by the Commission on Peace Officer
25 Standards and Training, so that the firearms may be used for
26 instructional purposes in the certified courses. All firearms released
27 to an academy shall be under the care, custody, and control of the
28 particular academy.

29 (4) Any firearm, or part of any firearm, which is not destroyed,
30 and is used for the purposes authorized by this section, shall be
31 returned to the law enforcement agency that had original custody
32 of the firearm when it is no longer needed by the basic training
33 academy, or when the basic training academy is no longer certified
34 by the commission.

35 (5) When those firearms are returned, the law enforcement
36 agency to which the firearms are returned, shall on the date of the
37 return, enter into the Automated Firearms System (AFS), via the
38 California Law Enforcement Telecommunications System, a
39 complete description of each weapon, including the make, type,

1 category, caliber, and serial number of the firearms, and the name
2 of the entity returning the firearm.

3 ~~SEC. 13.~~

4 *SEC. 12.* No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.