

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
IN AND FOR THE THIRD APPELLATE DISTRICT

DAVID GENTRY; JAMES PARKER;  
MARK MIDLAM; JAMES BASS; AND  
CALGUNS SHOOTING SPORTS  
ASSOCIATION,

Case No. C089655

PLAINTIFFS AND APPELLANTS,

v.

XAVIER BECERRA, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY GENERAL FOR  
THE STATE OF CALIFORNIA; STEPHEN  
LINDLEY, IN HIS OFFICIAL CAPACITY AS  
ACTING CHIEF OF THE CALIFORNIA  
DEPARTMENT OF JUSTICE; BETTY T.  
YEE, IN HER OFFICIAL CAPACITY AS  
STATE CONTROLLER; AND DOES 1-10,

DEFENDANTS AND RESPONDENTS.

**DECLARATION OF SEAN A. BRADY IN SUPPORT OF  
APPELLANTS' MOTION FOR JUDICIAL NOTICE**

Superior Court of California, County of Sacramento  
Case No. 34-2013-80001667  
Honorable Judge Richard K. Sueyoshi

C. D. Michel – SBN 144258  
Sean A. Brady – SBN 262007  
Anna M. Barvir – SBN 268728  
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*Counsel for Plaintiffs-Appellants*

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**Declaration of Sean A. Brady**

I, Sean A. Brady, declare as follows:

I am a partner with the law firm of Michel & Associates, and counsel of record for Plaintiffs and Appellants David Gentry, James Parker, Mark Midlam, James Bass, and Calguns Shooting Sports Association, and am a member in good standing of the State Bar of California. I have personal knowledge of the matters stated herein, and if called to testify could and would testify competently thereto.

The following documents are true and correct copies of the original senate bills, assembly bills, form addendums, and analyses they represent:

Exhibit 1: Assem. Bill No. 689 (1997-1998 Reg. Sess.).

Exhibit 2: Assem. Bill No. 991 (1997-1998 Reg. Sess.).

Exhibit 3: Assem. Bill No. 161 (2003-2004 Reg. Sess.).

Exhibit 4: Assem. Bill No. 1669 (2019-2020 Reg. Sess.).

Exhibit 5: Assem. Amend. to Assem. Bill No. 1669 (2019-2020 Reg. Sess.) May 24, 2019.

Exhibit 6: Sen. Rules Com., Off. of Sen. Floor Analyses, 3rd reading analysis of Assem. Bill No. 1669 (2019-2020 Reg. Sess.) as amended June 20, 2019.

Exhibit 7: Assem. Floor Analyses, Concurrence in Sen. Amendments of Assem. Bill No. 1669 (2019-2020 Reg. Sess.) as amended June 20, 2019.

Exhibit 8: Economic and Fiscal Impact Statement “Addendum” to Department Regulations (Regarding Dealer Record of Sale (DROS) Fees).

Exhibit 9: Economic and Fiscal Impact Statement “Attachment A” to Department Regulations (Regarding Identification Requirements for Firearms and Ammunition Eligibility Checks).

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I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this declaration was executed on February 7, 2020, in Los Angeles, California.

*s/ Sean A. Brady* \_\_\_\_\_

Sean A. Brady

Declarant

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# **EXHIBIT 1**

1997 Cal. Legis. Serv. Ch. 235 (A.B. 689) (WEST)

CALIFORNIA 1997 LEGISLATIVE SERVICE

1997 Portion of 1997-98 Regular Session

Additions are indicated by <<+ Text +>>; deletions by

<<- \* \* \* ->>. Changes in tables are made but not highlighted.

CHAPTER 235

A.B. No. 689

WEAPONS—LICENSES, PERMITS, AND SALES

AN ACT to amend Sections 12001, 12076, and 12078 of the Penal Code, relating to firearms.

[Approved by Governor August 6, 1997.]

[Filed with Secretary of State August 6, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 689, Bowler. Firearms.

(1) Existing law authorizes any firearms eligibility determination involving the issuance of any license, permit, or certificate to include the submission of the applicant's fingerprints to the Federal Bureau of Investigation.

This bill would require each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate to include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. The bill would authorize one copy of the fingerprints to be submitted to the Federal Bureau of Investigation.

(2) Existing law requires the Department of Justice to conduct a background check of the purchaser of any firearm by examining its records, and specified records of the State Department of Mental Health, in order to determine if the purchaser is within any of the classes of persons prohibited from possessing firearms.

This bill would authorize the Department of Justice to participate in the National Instant Criminal Background Check System (NICS), to the extent that funding is available, and if that participation is implemented, require the department to notify the dealer and the chief of police or sheriff of the city or county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) Existing law prohibits, with certain exceptions, the sale, lease, or transfer of firearms without a license and specifies waiting periods applicable to the sale, lease, or transfer of firearms. Existing law also requires every firearms dealer to keep a register in which information concerning the buyer of a firearm is entered pursuant to specified procedures. Violations of these provisions are punishable as criminal offenses. Under existing law, deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers, as specified, or made to authorized representatives of cities, cities and counties, counties, or state or federal governments for use by those governmental agencies are exempt from these provisions.

This bill would revise and recast this exemption with respect to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments, to require, prior to the delivery, transfer, or sale of any firearm, presentation of written authorization from the head of the agency authorizing the transaction to the person from whom the purchase, delivery, or transfer is being made. The bill also would require, within 10 days of the date a concealable firearm is acquired

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by the agency, a record of the same to be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. By imposing additional duties on local entities, the bill would create a state-mandated local program.

(4) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 12001 of the Penal Code is amended to read:

<< CA PENAL § 12001 >>

12001. (a) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term “firearm” includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term “firearm” also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e)(1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term “firearm” does not include an unloaded firearm which is defined as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term “firearm” does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a “pistol,” “revolver,” or “firearm capable of being concealed upon the person” from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, “application to purchase” means any of the following:

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(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

<<-\* \* \*->><<+(m) Each application that requires+>> any firearms eligibility determination involving the issuance of any license, permit, or certificate <<-\* \* \* ->><<+pursuant to this title shall+>> include <<-\* \* \* ->><<+two copies+>> of the applicant's fingerprints <<+on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted +>> to the United States Federal Bureau of Investigation.

SEC. 2. Section 12076 of the Penal Code is amended to read:

<< CA PENAL § 12076 >>

12076. (a)(1) Before January 1, 1998, the department shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(b)(1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a <<+fictitious+>> name or address or knowingly furnishing any incorrect information or knowingly

omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.

(d) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

<<+To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.+>>

If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may charge the dealer a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:

(1)(A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.



(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(f)(1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section and Sections 12289 and 12809.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i)(1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

- (1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.
- (2) "Purchase" means the purchase, loan, or transfer of a firearm.
- (3) "Sale" means the sale, loan, or transfer of a firearm.
- (4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

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

<< CA PENAL § 12078 >>

12078. (a)(1) The <<-\* \* \* ->><<+waiting periods described in Sections 12071, 12072, and 12084 shall+>> not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties<<- \* \* \*->>. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the <<-\* \* \* ->><<+dealer or local law enforcement agency acting pursuant to Section 12084+>> at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. <<+The dealer or local law enforcement <sup>1</sup> agency shall keep the certification with the record of sale, or LEFT, as the case may be.+>> On the <<+date+>> that the <<-\* \* \* ->><<+delivery, sale, or transfer is made, the dealer delivering+>> the firearm <<-\* \* \* ->><<+or the+>> law enforcement agency <<+processing the transaction+>> pursuant to Section 12084 <<-\* \* \* ->>shall forward by prepaid mail to the Department of Justice a report of the <<-\* \* \* ->><<+ transaction pursuant to subdivision (b) or (c) of+>> Section 12077 <<-\* \* \* ->><<+or Section 12084+>>. If electronic or telephonic transfer of applicant information is used, on the <<+date+>> that the application to purchase is completed, <<-\* \* \* ->><<+the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077+>>.

(2) The preceding provisions of this article <<-\* \* \* ->>do not apply to deliveries, transfers, or sales of firearms made to <<-\* \* \* ->><<+ authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a pistol, revolver, or other firearm capable of being concealed upon the person is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system+>>.

<<+(3) The preceding provisions of this article do not apply to the loan of a firearm made by an authorized law enforcement representative of a city, county, or city and county, or the state or federal government to a peace officer employed by that agency and authorized to carry a firearm for the carrying and use of that firearm by that peace officer in the course and scope of his or her duties.+>>

<<+(4) The preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred pursuant to Section 10334 of the

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Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.+>>

<<+(5) The preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Section 12027.1. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.+>>

<<+(6)+>> Subdivision (d) of Section 12072 does not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this subdivision shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

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

(c)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family and both of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) Prior to taking possession of the firearm, the person taking title to the firearm shall obtain a basic firearm safety certificate.

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

(A) Parent and child.

(B) Grandparent and grandchild.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to

invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility <<+that+>> holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i)(1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of firearms by operation of law if all the following conditions are met:

(A) The person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(B) If the firearms are pistols, revolvers, or other firearms capable of being concealed upon the person, and the person is not a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of the same and the type of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports <<+that+>> individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(C) In the case of a transmutation of property between spouses made in accordance with Section 850 of the Family Code consisting of a pistol, revolver, or other firearm capable of being concealed upon the person, taking place on or after April 1, 1994, a basic firearms safety certificate shall be required prior to taking possession of the firearm.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, on and after April 1, 1994, that individual shall have a basic firearms safety certificate in order for the exemption set forth in this paragraph to apply.

(j) Subdivision (d) of Section 12072 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12028, 12028.5, or 12030.

(k) Section 12071 and subdivision (c) of Section 12072 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

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

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

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business upon proof that the person receiving the firearm is licensed pursuant to Section 12071.



(5) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(l) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a pistol, revolver, or other firearm capable of being concealed upon the person or who moves out of this state with his or her pistol, revolver, or other firearm capable of being concealed upon the person may submit a report of the same to the Department of Justice in a format prescribed by the department.

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

(n)(1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer in either of the following situations:

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

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

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

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071.

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

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p)(1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

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

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

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

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

(3) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian if both of the following circumstances exist:

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

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

(4) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071, 12072, or 12084 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the same as described in subdivision (b) or (c) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s) Subdivision (d) of Section 12072 shall not apply to the loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges for use solely as a prop for a motion picture, television, or video production or an entertainment or theatrical event.

(t) The waiting period described in Sections 12071, 12072, and 12084 shall not apply to the sale, delivery, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person, which is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, by a dealer or through a law enforcement agency to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) of Section 12077.

(u) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

<sup>1</sup> So in enrolled bill.

CA LEGIS 235 (1997)

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# **EXHIBIT 2**



1997 Cal. Legis. Serv. Ch. 462 (A.B. 991) (WEST)

CALIFORNIA 1997 LEGISLATIVE SERVICE

1997 Portion of 1997-98 Regular Session

Additions are indicated by <<+ Text +>>; deletions by

<<- \* \* \* ->>. Changes in tables are made but not highlighted.

CHAPTER 462

A.B. No. 991

FIREARMS—POSSESSION AND TRANSFER—BACKGROUND CHECKS

AN ACT to add Section 5343.5 to the Food and Agricultural Code, to amend Sections 11106, 12001, 12026.2, 12072, 12076, 12077, and 12082 of the Penal Code, and to amend Section 20 of Chapter 1326 of the Statutes of 1992, relating to firearms.

[Approved by Governor September 23, 1997.]

[Filed with Secretary of State September 24, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 991, Shelley. Firearms.

(1) Existing law regulates the delivery, sale, or transfer of a firearm by persons who are licensed under federal law and whose licensed premises are located in this state.

This bill, commencing on or after January 1, 1998, would require any of these persons who is a personal handgun importer to comply with certain prescribed conditions within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state. The bill also would require any of these persons, also licensed as collectors, who acquire and take actual possession outside of this state of a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic to report to the Department of Justice in a prescribed format his or her acquisition of that firearm within 5 days of transporting that firearm into this state. These provisions would not apply to a person who reports his or her ownership of a concealable firearm after the grace periods specified in these provisions if the violation occurs as a result of the person submitting the prescribed report specified in these provisions. A violation of these requirements would be punishable as a misdemeanor, except under specified circumstances. Because this bill would create new crimes, it would impose a state-mandated local program.

(2) Existing law provides that a person is guilty of carrying a concealed firearm when he or she carries concealed upon his or her person or within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person, except as specified.

This bill would except from this provision the transportation of a firearm by a person in order to comply with the requirements described in (1) above, and the transportation of a firearm by a person who finds the firearm, as specified.

(3) Existing law authorizes any firearms eligibility determination involving the issuance of any license, permit, or certificate to include the submission of the applicant's fingerprints to the Federal Bureau of Investigation.

This bill would require each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate to include 2 copies of the applicant's fingerprints on forms prescribed by the Department

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of Justice. The bill would authorize one copy of the fingerprints to be submitted to the United States Federal Bureau of Investigation. By imposing additional duties on local government, the bill would create a state-mandated local program.

(4) Existing law requires the Department of Justice to conduct a background check of the purchaser of any firearm by examining its records and specified records of the State Department of Mental Health in order to determine if the purchaser is within any of the classes of persons prohibited from possessing firearms.

This bill would authorize the Department of Justice to participate in the National Instant Criminal Background Check System (NICS), to the extent that funding is available, and if that participation is implemented, would require the department to notify the dealer and the chief of police or sheriff of the city or county in which the sale was made that the purchaser is a person prohibited from acquiring a firearm under federal law.

(5) The bill also would require the Department of Food and Agriculture at any inspection station maintained at or near the California border to display specified notices concerning the bringing of firearms into this state.

(6) This bill would incorporate additional changes in Section 12072 of the Penal Code proposed by AB 1124, to be operative if AB 1124 and this bill are both enacted and become effective on or before January 1, 1998, and this bill is enacted last.

(7) This bill would incorporate additional changes in Section 12076 of the Penal Code proposed by SB 591, to be operative if SB 591 and this bill are both enacted and become effective on or before January 1, 1998, and this bill is enacted last.

(8) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 5343.5 is added to the Food and Agricultural Code, to read:

<< CA FOOD & AG § 5343.5 >>

5343.5. At any inspection station maintained at or near the California border by the director pursuant to Section 5341, the following sign shall be conspicuously posted in block letters not less than four inches in height:

“NOTICE: IF YOU ARE A CALIFORNIA RESIDENT, THE FEDERAL GUN CONTROL ACT MAY PROHIBIT YOU FROM BRINGING WITH YOU INTO THIS STATE FIREARMS THAT YOU ACQUIRED OUTSIDE OF THIS STATE.

IN ADDITION, IF YOU ARE A NEW CALIFORNIA RESIDENT, STATE LAW REGULATES YOUR BRINGING INTO CALIFORNIA HANDGUNS AND OTHER DESIGNATED FIREARMS AND MANDATES THAT SPECIFIC PROCEDURES BE FOLLOWED.

IF YOU HAVE ANY QUESTIONS ABOUT THE PROCEDURES TO BE FOLLOWED IN BRINGING FIREARMS INTO CALIFORNIA OR TRANSFERRING FIREARMS WITHIN CALIFORNIA, YOU SHOULD CONTACT THE CALIFORNIA DEPARTMENT OF JUSTICE OR A LOCAL CALIFORNIA LAW ENFORCEMENT AGENCY.”

SEC. 2. Section 11106 of the Penal Code is amended to read:

<< CA PENAL § 11106 >>

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11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section <<+12072 or +>> 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b)(1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c)(1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to pistols, revolvers, or other firearms capable of being concealed upon the person and maintain a registry thereof.

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

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person as listed on the information provided to the department on the <<+Dealers'+>> Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the <<+Dealers'+>> Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105 or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.

SEC. 3. Section 12001 of the Penal Code is amended to read:

## &lt;&lt; CA PENAL § 12001 &gt;&gt;

12001. (a) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term “firearm” includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term “firearm” also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e)(1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), <<-\* \*->><<+(d), and (f)+>> of Section 12072, the term “firearm” does not include an unloaded firearm which is defined as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term “firearm” does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a “pistol,” “revolver,” or “firearm capable of being concealed upon the person” from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, “application to purchase” means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) <<-\* \* \*->><<+Each application that requires+>> any firearms eligibility determination involving the issuance of any license, permit, or certificate <<-\* \* \*->><<+pursuant to this title shall include two copies+>> of the applicant's fingerprints <<+on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted+>> to the United States Federal Bureau of Investigation.

<<+(n) As used in this chapter, a “personal handgun importer” means an individual who meets all of the following criteria:+>>

- <<+(1) He or she is not a person licensed pursuant to Section 12071.+>>
- <<+(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.+>>
- <<+(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.+>>
- <<+(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.+>>
- <<+(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.+>>
- <<+(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.+>>
- <<+(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.+>>
- <<+(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.+>>
- <<+(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.+>>
- <<+(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.+>>
- <<+(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276.+>>
- <<+(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.+>>
- <<+(13) The person is 18 years of age or older.+>>
- <<+(o) For purposes of paragraph (6) of subdivision (n):+>>
- <<+(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.+>>
- <<+(2) In the case of members of the armed forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.+>>

SEC. 4. Section 12026.2 of the Penal Code is amended to read:

<< CA PENAL § 12026.2 >>

12026.2. (a) Section 12025 does not apply to, or affect, any of the following:

- (1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to, or coming directly from, that production or event.
- (2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to, and coming directly from, those meetings.
- (3) The transportation of a firearm by a participant when going directly to, or coming directly from, a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.
- (4) The transportation of a firearm by a person listed in Section 12026 directly between any of the places mentioned in Section 12026.

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(5) The transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer, sale, or loan of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.

(7) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show, swap meet, or similar event to which the public is invited, for the purpose of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to, or coming directly from, a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to, or coming directly from, a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

(11) The transportation of a firearm by a person when going directly to, or coming directly from, a law enforcement agency for the purpose of a lawful transfer, sale, or loan of that firearm pursuant to Section 12084.

(12) The transportation of a firearm by a person when going directly to, or coming directly from, a lawful camping activity for the purpose of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

(13) The transportation of a firearm by a person in order to comply with subdivision (c) or (i) of Section 12078 as it pertains to that firearm.

(14) The transportation of a firearm by a person in order to utilize subdivision (l) of Section 12078 as it pertains to that firearm.

(15) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with subdivision (d) of Section 12072.

(16) The transportation of a firearm by a person in order to utilize paragraph (3) of subdivision (a) of Section 12078 as it pertains to that firearm.

<<+(17) The transportation of a firearm by a person who finds the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm and if that firearm is being transported to a law enforcement agency, the person gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency.+>>

<<+(18) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to law, if he or she gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.+>>

<<+(19) The transportation of a firearm by a person in order to comply with paragraph (2) of subdivision (f) of Section 12072 as it pertains to that firearm.+>>

<<+(20) The transportation of a firearm by a person in order to comply with paragraph (3) of subdivision (f) of Section 12072 as it pertains to that firearm.+>>

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

SEC. 5. Section 12072 of the Penal Code is amended to read:

## &lt;&lt; CA PENAL § 12072 &gt;&gt;

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

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

(3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor.

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

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

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

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

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

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

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

(i) The provisions of subdivision (d).

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

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

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

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

(1) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 15 days of the submission to the department of any correction to the application, or within 15 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. On or after April 1, 1997, within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

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

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

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic <<+firearms+>> safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

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

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

(2) Knowingly grading the examination falsely.

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

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

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

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(f) No person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless one of the following conditions is met:

(A) The person presents proof of licensure pursuant to Section 12071 to that person.

(B) The person presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d).

(2)(A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

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

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

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

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

(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.

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

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

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

(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.

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

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

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to



transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.+>>

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

<<+(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.+>>

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

<<+(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).+>>

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

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

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

(B) If the defendant has a prior conviction of violating this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

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

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

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

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

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

(A) A violation of paragraph (2) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of paragraph (4) of subdivision (a).

(D) A violation of paragraph (5) of subdivision (a).

(E) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

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

(G) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(H) A violation of subdivision (e).

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

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

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

SEC. 5.5. Section 12072 of the Penal Code is amended to read:

<< CA PENAL § 12072 >>

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

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

(3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor.

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

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

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

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

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

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

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

(i) The provisions of subdivision (d).

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

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

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

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

(1) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 15 days of the submission to the department of any correction to the application, or within 15 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. On or after April 1, 1997, within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

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

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

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic <<+firearms+>> safety certificate.

<<+(6) Commencing July 1, 1998, a dealer shall provide the purchaser or transferee of a firearm, or person being loaned a firearm, a trigger lock or similar device designed for that firearm. The trigger lock or similar device shall be designed to prevent the unintentional discharge of the firearm. The provisions of this paragraph shall not apply to any purchaser, transferee, or other persons being loaned a relic, curio, memorabilia, or display firearm.+>>

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

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

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

(2) Knowingly grading the examination falsely.

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

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

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

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(f) <<+(1)+>> No person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless one of the following conditions is met:

<<+(A)+>> The person presents proof of licensure pursuant to Section 12071 to that person.

<<+(B)+>> The person presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d).

<<+(2)(A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:+>>

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

<<+(ii) Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).+>>

<<+(iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.+>>

<<+(iv) Sell or transfer the firearm to a sheriff or police department.+>>

<<+(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.+>>

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

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

<<+(ii) As part of the public education and notification program described in this subparagraph, the department shall do all of the following:+>>

<<+(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.+>>

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

<<+(III) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.+>>

<<+(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.+>>

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

<<+(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.+>>

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

<<+(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).+>>

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

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

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

(B) If the defendant has a prior conviction of violating this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

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

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

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

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

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

(A) A violation of paragraph (2) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

- (C) A violation of paragraph (4) of subdivision (a).
- (D) A violation of paragraph (5) of subdivision (a).
- (E) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.
- (F) A violation of paragraph (1), (3), (4), or (5) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.
- (G) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.
- (H) A violation of subdivision (e).
- (4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.
  - (A) A violation of paragraph (2) of subdivision (a) or subdivision (b).
  - (B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

SEC. 6. Section 12076 of the Penal Code is amended to read:

<< CA PENAL § 12076 >>

12076. (a)(1) Before January 1, 1998, the department shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

- (A) Submission of the register described in Section 12077.
- (B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.
- (2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.
  - (b)(1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.
  - (2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.
  - (3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.
  - (4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.
  - (5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a <<+fictitious+>> name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or <<+telephone+>> transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.



(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.

(d)<<(1)+>> The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

<<(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.>>

<<(3)+>> If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

<<(4)+>> If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

<<(5)+>> If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may charge the dealer a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:

(1)(A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by <<-\* \* \*->>Section 8103 of the Welfare and Institutions Code<<-\* \* \*->>.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by <<-\* \* \*->>Section 8104 of the Welfare and Institutions Code<<-\* \* \*->>.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, and the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(f)(1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and Sections 12289 and 12809.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i)(1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 6.5. Section 12076 of the Penal Code is amended to read:

<< CA PENAL § 12076 >>

12076. (a)(1) Before January 1, 1998, the department shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(b)(1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a <<+fictitious+>> name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or <<+telephone+>> transfer and any person violating any provision of this section is guilty of a misdemeanor.



(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.

(d)<<(1)>> The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

<<(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.>>

<<(3)>> If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

<<(4)>> If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

<<(5)>> If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may <<require>> the dealer <<to charge each firearm purchaser>> a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:

(1)(A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by <<-\* \* \*->>Section 8103 of the Welfare and Institutions Code<<-\* \* \*->>.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by <<-\* \* \*->>Section 8104 of the Welfare and Institutions Code<<-\* \* \*->>.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

<<+(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.+>>

<<+(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.+>>

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by <<-\* \* \*->>paragraph (2) <<+of+>> this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by <<-\* \* \*->>paragraph (3) <<+of+>> this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by <<-\* \* \*->>paragraph (4) <<+of+>> this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, <<-\* \* \*->>the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code <<-\* \* \*->><<+imposed by+>> paragraph (6) <<+of+>> this subdivision<<+, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, and the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072+>>.

(f)(1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (1) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071<<+, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072+>>.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section<<+, subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072,+>> and Sections 12289 and 12809.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i)(1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 7. Section 12077 of the Penal Code is amended to read:

<< CA PENAL § 12077 >>

12077. (a) The Department of Justice shall prescribe the form of the register and the record of electronic or telephonic transfer pursuant to Section 12074.

(b) For pistols, revolvers, and other firearms capable of being concealed upon the person, information contained in the register or record of electronic or telephonic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, <<+dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078,+>> curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, <<-\* \* \*->> purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement <<-\* \* \*->><<+of the penalties for+>> any person signing a fictitious name or address or <<+for+>> knowingly furnishing any incorrect information or <<+for+>> knowingly omitting any information required to be provided for the register<<-\* \* \*->>.

(c) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register or record of electronic or telephonic transfer shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, full name of purchaser, purchaser's

complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement <<-\* \* \*->><<+of the penalties for+>> any person signing a fictitious name or address or <<+for+>> knowingly furnishing any incorrect information or <<+for+>> knowingly omitting any information required to be provided for the register<<-\* \* \*->>.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

(f) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

SEC. 8. Section 12082 of the Penal Code is amended to read:

<< CA PENAL § 12082 >>

12082. <<+(a)+>> A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. <<-\* \* \*->>The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars (\$10) per firearm, plus the applicable fee that the Department of Justice may charge pursuant to Section 12076. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The fee that the department may charge is the fee that would be applicable pursuant to Section 12076, if the dealer was selling, transferring, or delivering a firearm to a purchaser or transferee or person being loaned a firearm, without any other parties being involved in the transaction.

<<+(b) The Attorney General shall adopt regulations under this section to do all of the following:+>>

<<+(1) Allow the seller or transferor of the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of those records.+>>

<<+(2) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, to allow a personal handgun importer's ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of his or her ownership can be maintained in the registry provided by subdivision (c) of Section 11106.+>>

<<+(3) Ensure that the register or record of electronic or telephonic transfer shall state the name and address of the seller or transferor of the firearm or the person loaning the firearm and whether or not the person is a personal handgun importer in addition to any other information required by Section 12077.+>>

<<+(c)+>> A violation of this section by a dealer is a misdemeanor.

SEC. 9. Notwithstanding any other provision of law, the Department of Justice may exercise its authority pursuant to Section 12076 of the Penal Code to adjust the fees set forth in subdivision (e) and paragraph (1) of subdivision (f) of Section 12076 of the Penal Code in an amount not to exceed the increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations in order to cover the actual costs of implementing the provisions of this act.

SEC. 10. Section 20 of Chapter 1326 of the Statutes of 1992 is amended to read:

Sec. 20. It is the intent of the Legislature in enacting this act that to the extent practicable, the Department of Justice shall promulgate a uniform form that may be utilized pursuant to paragraphs (2) and (3) of subdivision (f) of Section 12072 and Section 12078 of the Penal Code.

SEC. 11. Section 5.5 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by both this bill and AB 1124. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 12072 of the Penal Code, and (3) this bill is enacted after AB 1124, in which case Section 5 of this bill shall not become operative.

SEC. 12. Section 6.5 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and SB 591. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 12076 of the Penal Code, and (3) this bill is enacted after SB 591, in which case Section 12076 of the Penal Code, as amended by SB 591, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CA LEGIS 462 (1997)



# **EXHIBIT 3**

2003 Cal. Legis. Serv. Ch. 754 (A.B. 161) (WEST)

CALIFORNIA 2003 LEGISLATIVE SERVICE

2003 Portion of 2003-2004 Regular Session

Additions are indicated by **Text**; deletions by

**\*\*\*** . Changes in tables are made but not highlighted.

CHAPTER 754

A.B. No. 161

WEAPONS—DEALERS—LICENSES AND PERMITS

AN ACT to amend Section 12076 of, and to repeal Section 12071 of, the Penal Code, and to amend Section 3 of Chapter 909 of the Statutes of 2002, and Section 4 of Chapter 911 of the Statutes of 2002, relating to firearms, and making an appropriation therefor.

[Filed with Secretary of State October 11, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 161, Steinberg. Firearms.

Existing law authorizes the Department of Justice to require a firearms dealer to charge a fee to reimburse certain expenses incurred by the department in connection with checking the backgrounds of prospective firearms purchasers. Existing law also provides that these fees may not be used directly or as a loan to fund other programs.

This bill would recast those provisions to provide that the fees may be used to fund firearms-related regulatory and enforcement programs, as specified.

Existing law, subject to a contingency, requires persons licensed as a firearms dealer, importer, manufacturer, or collector, as specified, to provide a copy of that license to the Department of Justice, as specified. Existing law regulates the licensing of firearms dealers and various dealer activities including, among other things, the transfer of firearms by dealers, and, subject to a contingency, requires verification of certain firearms dealers' licenses under specified circumstances. Existing law makes operation of those provisions effective January 1, 2004, contingent upon a specified amount of money being in reserve in the Dealers' Record of Sale Special Account.

This bill would provide that those provisions, the operation of which is currently subject to a contingency, would become operative on January 1, 2004.

This bill would make an appropriation of \$548,000 from the Dealer's Record of Sale Special Account to the Department of Justice for the purpose of implementing the provisions requiring verification of certain firearms dealers' licenses in specified circumstances.

Appropriation: yes.

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

<< Repealed: CA PENAL § 12071 >>

Document received by the CA 3rd District Court of Appeal.

SECTION 1. Section 12071 of the Penal Code, as amended by Section 1 of Chapter 911 of the Statutes of 2002, is repealed.  
 SEC. 2. Section 12076 of the Penal Code is amended to read:

<< CA PENAL § 12076 >>

12076. (a)(1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b)(1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.



(d)(1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is \*\*\* necessary to fund the following\*\*\* :

- (1)(A) The department for the cost of furnishing this information.
- (B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.
  - (2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.
  - (3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.
  - (4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.
  - (5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.
  - (6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.
  - (7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, ~~\*\*\*~~ the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f)(1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i)(1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 3. Section 9 of Chapter 909 of the Statutes of 2002 is amended to read:

Sec. 9. Notwithstanding subdivision (c) of Section 12083, Section 12083 of the Penal Code shall become operative on January 1, 2004.

SEC. 4. Section 4 of Chapter 911 of the Statutes of 2002 is amended to read:

Sec. 4. Section 1.5 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 2080. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 12071 of the Penal Code, and (3) this bill is enacted after AB 2080, in which case Section 12071 of the Penal Code, as amended by Section 1 of this bill, shall remain operative only until January 1, 2004, at which time Section 1.5 of this bill shall become operative.

SEC. 5. The sum of five hundred forty-eight thousand dollars (\$548,000) is hereby appropriated from the Dealers' Record of Sale Special Account to the Department of Justice for purposes of implementing Section 12083 of the Penal Code, as added by Chapter 909 of the Statutes of 2002.

CA LEGIS 754 (2003)

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Document received by the CA 3rd District Court of Appeal.

# EXHIBIT 4



## Assembly Bill No. 1669

### CHAPTER 736

An act to amend Sections 27205, 27210, 27220, 27225, 27235, 27240, 27305, 27310, 27315, 27320, 27340, 27345, 28225, 28235, and 28240 of, and to add Section 28233 to, the Penal Code, relating to firearms.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1669, Bonta. Firearms: gun shows and events.

Existing law prescribes certain rules and requirements relating to gun shows and events, and the organizers, vendors, and participants, including required signage, notice to the Department of Justice, rules governing transactions, and rules regarding firearms brought to the event. A violation of any of these provisions is a crime.

The existing Safety For All Act of 2016, approved as an initiative statute at the November 8, 2016, statewide general election, requires the sale of ammunition to be conducted by or processed through a licensed ammunition vendor. The Safety For All Act of 2016 authorizes, as specified, the sale of ammunition by a licensed vendor at gun shows and events.

This bill would amend those provisions of law prescribing the rules and regulations for gun shows and events to be consistent with the sale of ammunition at gun shows and events as authorized by the Safety For All Act of 2016.

By updating the provisions relating to guns shows and events, any violation of which is a crime, this bill would expand the applicability of an existing crime, thus creating a state-mandated local program.

Existing law authorizes the Department of Justice to charge a fee, as specified, to fund several enforcement and administrative programs relating to firearms. Existing law authorizes this fee to cover the regulatory cost of processing firearms transactions, as specified.

This bill would reduce the amount of the fee to \$1 and remove the authority of the department to spend the proceeds from the fee on specified regulatory costs related to the purchase, sale, and transfer of firearms, as specified. The bill would also authorize the department to charge an additional fee in the amount of \$31.19 per firearms-related transaction to cover the costs of its firearms-related regulatory and enforcement activities, as specified.

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.

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

SECTION 1. Section 27205 of the Penal Code is amended to read:

27205. (a) Before commencement of a gun show or event, the producer thereof shall, upon written request from a law enforcement agency with jurisdiction over the facility, make available to that agency, within 48 hours or a later time specified by the agency, a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms, or processing the sale or transfer of ammunition.

(b) The producer shall thereafter, upon written request, for every day the gun show or event operates, within 24 hours or a later time specified by the requesting law enforcement agency, make available to that agency an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms, or processing the sale or transfer of ammunition.

(c) Subdivisions (a) and (b) apply to any person, entity, or organization, regardless of whether that person, entity, or organization participates in the entire gun show or event, or only a portion thereof.

(d) The information that may be requested by the law enforcement agency with jurisdiction over the facility, and that shall be provided by the producer upon request, includes, but is not limited to, the following information relative to a vendor who offers for sale any firearms manufactured after December 31, 1898, or any ammunition:

- (1) The vendor's complete name.
- (2) A driver's license or identification card number.

SEC. 2. Section 27210 of the Penal Code is amended to read:

27210. (a) The producer and facility's manager of a gun show or event shall prepare an annual event and security plan and schedule that shall include, at a minimum, the following information for each show or event:

- (1) The type of show or event, including, but not limited to, antique or general firearms and ammunition.
- (2) The estimated number of vendors offering firearms or ammunition for sale or display.
- (3) The estimated number of attendees.
- (4) The number of entrances and exits at the gun show or event site.
- (5) The location, dates, and times of the show or event.
- (6) The contact person and telephone number for both the producer and the facility.



(7) The number of sworn peace officers employed by the producer or the facility's manager who will be present at the show or event.

(8) The number of nonsworn security personnel employed by the producer or the facility's manager who will be present at the show or event.

(b) The annual event and security plan shall be submitted by either the producer or the facility's manager to the Department of Justice and the law enforcement agency with jurisdiction over the facility.

(c) If significant changes have been made since the annual plan was submitted, the producer shall, not later than 15 days before commencement of the gun show or event, submit to the department, the law enforcement agency with jurisdiction over the facility site, and the facility's manager, a revised event and security plan, including a revised list of vendors that the producer knows, or reasonably should know, will be renting tables, space, or otherwise participating in the gun show or event.

(d) The event and security plan shall be approved by the facility's manager before the event or show, after consultation with the law enforcement agency with jurisdiction over the facility.

(e) A gun show or event shall not commence unless the requirements of subdivisions (b), (c), and (d) are met.

SEC. 3. Section 27220 of the Penal Code is amended to read:

27220. (a) Within seven calendar days of the commencement of a gun show or event, but not later than noon on Friday for a show or event held on a weekend, the producer shall submit a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers or ammunition vendors to the Department of Justice for the purpose of determining whether these prospective vendors and designated firearms transfer agents possess valid licenses and are thus eligible to participate as licensed dealers or ammunition vendors at the show or event.

(b) The department shall examine its records and if it determines that a dealer's or vendor's license is not valid, it shall notify the show or event producer of that fact before the show or event commences.

SEC. 4. Section 27225 of the Penal Code is amended to read:

27225. If a licensed firearms dealer or ammunition vendor fails to cooperate with a producer of a gun show or event, or fails to comply with the applicable requirements of this article or Article 2 (commencing with Section 27300), that person shall not be allowed to participate in that show or event.

SEC. 5. Section 27235 of the Penal Code is amended to read:

27235. Every producer of a gun show or event shall have a written contract with each gun show vendor selling firearms or ammunition at the show or event.

SEC. 6. Section 27240 of the Penal Code is amended to read:

27240. (a) The producer of a gun show or event shall require that signs be posted in a readily visible location at each public entrance to the show containing, but not limited to, the following notices:

(1) This gun show follows all federal, state, and local firearms, ammunition, and weapons laws, without exception.

(2) Any firearm carried onto the premises by any member of the public will be checked, cleared of any ammunition, and secured in a manner that prevents it from being operated, and an identification tag or sticker will be attached to the firearm before the person is allowed admittance to the show.

(3) No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.

(4) All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.

(5) Persons possessing firearms or ammunition at this facility shall have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined in Section 830.

(6) All ammunition transfers between private parties at the show shall be conducted through a licensed dealer or ammunition vendor in accordance with applicable state and federal laws.

(b) The show producer shall post, in a readily visible location at each entrance to the parking lot at the show, signage that states: "The transfer of firearms or ammunition on the parking lot of this facility is a crime."

SEC. 7. Section 27305 of the Penal Code is amended to read:

27305. All gun show or event vendors shall certify in writing to the producer that they:

(a) Will not display, possess, or offer for sale any firearms, ammunition, knives, or weapons for which possession or sale is prohibited.

(b) Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms or ammunition.

(c) Will not engage in activities that incite or encourage hate crimes.

(d) Will process all transfers of firearms through licensed firearms dealers as required by state law.

(e) Will process all sales or transfers of ammunition through licensed firearms dealers or ammunition vendors as required by state law.

(f) Will verify that all firearms in their possession at the show or event will be unloaded, and that the firearms will be secured in a manner that prevents them from being operated except for brief periods when the mechanical condition of a firearm is being demonstrated to a prospective buyer.

(g) Have complied with the requirements of Section 27320.

(h) Will not display or possess black powder, or offer it for sale.

SEC. 8. Section 27310 of the Penal Code is amended to read:

27310. All firearms and ammunition transfers or sales at a gun show or event shall be in accordance with applicable state and federal laws.

SEC. 9. Section 27315 of the Penal Code is amended to read:

27315. Sales of ammunition at a gun show or event shall comply with all applicable laws, including Sections 30347, 30348, 30350, 30352, and 30360.

SEC. 10. Section 27320 of the Penal Code is amended to read:

27320. (a) Before commencement of a gun show or event, each vendor who will offer for sale any firearms manufactured after December 31, 1898, or any ammunition, shall provide to the producer all of the following information relative to the vendor, the vendor's employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor's display space:

- (1) The person's complete name.
- (2) The person's driver's license or state-issued identification card number.
- (3) The person's date of birth.
- (4) The person's certificate of eligibility number pursuant to Section 26915 or 30347 of the Penal Code.

(b) The producer shall keep the information at the onsite headquarters of the show or event for the duration of the show or event, and at the producer's regular place of business for two weeks after the conclusion of the show or event. The producer shall make the information available upon request to any sworn peace officer for purposes of the officer's official law enforcement duties.

SEC. 11. Section 27340 of the Penal Code is amended to read:

27340. (a) Persons other than show or event security personnel, sworn peace officers, or vendors, who bring any firearm or any ammunition that is separate from a firearm onto the gun show or event premises shall sign in ink the tag or sticker that is attached to the firearm prior to being allowed admittance to the show or event, as provided for in subdivision (b) and (c).

(b) All firearms carried onto the premises of a gun show or event by members of the public shall be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker shall be attached to the firearm, prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all firearms transfers between private parties at the show or event shall be conducted through a licensed dealer in accordance with applicable state and federal laws. The person possessing the firearm shall complete the following information on the tag before it is attached to the firearm:

- (1) The gun owner's signature.
- (2) The gun owner's printed name.
- (3) The identification number from the gun owner's government-issued photo identification.

(c) Any ammunition carried onto the premises of a gun show or event by members of the public shall be checked and secured in a manner that prevents the ammunition from being discharged. An identification tag or sticker shall be attached to the ammunition prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all ammunition transfers between private parties at the show or event shall be conducted through a licensed dealer or ammunition vendor in accordance with applicable state and federal laws. The person possessing the ammunition shall complete the following information on the tag before it is attached to the ammunition:

- (1) The ammunition owner's signature.
- (2) The ammunition owner's printed name.
- (3) The identification number from the ammunition owner's government-issued photo identification.

SEC. 12. Section 27345 of the Penal Code is amended to read:

27345. Any person who possesses a firearm or ammunition at a gun show or event shall have government-issued photo identification in immediate possession, and shall display it upon request to any security officer or peace officer.

SEC. 13. Section 28225 of the Penal Code is amended to read:

28225. (a) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed one dollar (\$1), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(b) The fee under subdivision (a) shall be no more than is necessary to fund the following:

- (1) The department for the cost of furnishing this information.
- (2) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.
- (3) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.
- (4) The State Department of State Hospitals for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.
- (5) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.
- (6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.
- (7) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.
- (8) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.
- (9) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.
- (10) The department for the costs associated with subdivisions (d) and (e) of Section 27560.

(c) The fee established pursuant to this section shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (3) of subdivision (b), the costs of the State Department of State Hospitals for complying with the requirements

imposed by paragraph (4) of subdivision (b), the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (5) of subdivision (b), the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, and the estimated reasonable costs of the department for the costs associated with subdivisions (d) and (e) of Section 27560.

(d) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in this section to the department.

SEC. 14. Section 28233 is added to the Penal Code, to read:

28233. (a) The Department of Justice may, in addition to the fee described in Sections 28225 and 28230, require a dealer to charge each firearm purchaser a fee in the amount of thirty-one dollars and nineteen cents (\$31.19).

(b) Moneys received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Supplemental Subaccount, within the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the reasonable costs of firearms-related regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(c) The fee described in subdivision (a) may be increased at a rate no more than any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations, but not to exceed the reasonable cost of regulation to the department.

SEC. 15. Section 28235 of the Penal Code is amended to read:

28235. Except as otherwise provided in Section 28233, moneys received by the department pursuant to this article shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to any of the following:

- (a) This article.
- (b) Section 18910.
- (c) Section 27555.
- (d) Subdivisions (d) and (e) of Section 27560.
- (e) Chapter 4.1 (commencing with Section 28010).
- (f) Article 6 (commencing with Section 28450).
- (g) Section 31110.

- (h) Section 31115.
- (i) Subdivision (a) of Section 32020.
- (j) Section 32670.
- (k) Section 33320.

SEC. 16. Section 28240 of the Penal Code is amended to read:

28240. Each fee prescribed in this article shall only be charged once for a single transaction on the same date for taking title or possession of any number of firearms.

SEC. 17. 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 for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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# **EXHIBIT 5**

AMENDED IN ASSEMBLY MAY 24, 2019

AMENDED IN ASSEMBLY MAY 20, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1669**

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**Introduced by Assembly Member Bonta**

February 22, 2019

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An act to amend Sections 27205, 27210, 27220, 27225, 27235, 27240, 27305, 27310, 27315, 27320, 27340, 27345, 28225, ~~and 28230~~ of 28235, and 28240 of, and to add Section 28233 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1669, as amended, Bonta. Firearms: gun shows and events.

Existing law prescribes certain rules and requirements relating to gun shows and events, and the organizers, vendors, and participants, including required signage, notice to the Department of Justice, rules governing transactions, and rules regarding firearms brought to the event. A violation of any of these provisions is a crime.

The existing Safety For All Act of 2016, approved as an initiative statute at the November 8, 2016, statewide general election, requires the sale of ammunition to be conducted by or processed through a licensed ammunition vendor. The Safety For All Act of 2016 authorizes, as specified, the sale of ammunition by a licensed vendor at gun shows and events.

This bill would amend those provisions of law prescribing the rules and regulations for gun shows and events to be consistent with the sale

of ammunition at gun shows and events as authorized by the Safety For All Act of 2016.

By updating the provisions relating to guns shows and events, any violation of which is a crime, this bill would expand the applicability of an existing crime, thus creating a state-mandated local program.

Existing law authorizes the Department of Justice to charge a fee, as specified, to fund several enforcement and administrative programs relating to firearms. Existing law authorizes the department to charge a fee to cover the regulatory cost of processing firearms transactions, as specified.

~~This bill would increase the amount of those fees.~~

~~This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.~~

*This bill would authorize the Department of Justice to charge an additional fee in the amount of \$13.19 per firearms-related transaction to cover the costs of its firearms-related regulatory and enforcement activities.*

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: 2/3-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 27205 of the Penal Code is amended to
- 2 read:
- 3 27205. (a) Before commencement of a gun show or event, the
- 4 producer thereof shall, upon written request from a law
- 5 enforcement agency with jurisdiction over the facility, make
- 6 available to that agency, within 48 hours or a later time specified
- 7 by the agency, a complete and accurate list of all persons, entities,
- 8 and organizations that have leased or rented, or are known to the
- 9 producer to intend to lease or rent, any table, display space, or area
- 10 at the gun show or event for the purpose of selling, leasing, or

1 transferring firearms, or processing the sale or transfer of  
2 ammunition.

3 (b) The producer shall thereafter, upon written request, for every  
4 day the gun show or event operates, within 24 hours or a later time  
5 specified by the requesting law enforcement agency, make available  
6 to that agency an accurate, complete, and current list of the persons,  
7 entities, and organizations that have leased or rented, or are known  
8 to the producer to intend to lease or rent, any table, display space,  
9 or area at the gun show or event for the purpose of selling, leasing,  
10 or transferring firearms, or processing the sale or transfer of  
11 ammunition.

12 (c) Subdivisions (a) and (b) apply to any person, entity, or  
13 organization, regardless of whether that person, entity, or  
14 organization participates in the entire gun show or event, or only  
15 a portion thereof.

16 (d) The information that may be requested by the law  
17 enforcement agency with jurisdiction over the facility, and that  
18 shall be provided by the producer upon request, includes, but is  
19 not limited to, the following information relative to a vendor who  
20 offers for sale any firearms manufactured after December 31, 1898,  
21 or any ammunition:

22 (1) The vendor's complete name.

23 (2) A driver's license or identification card number.

24 SEC. 2. Section 27210 of the Penal Code is amended to read:

25 27210. (a) The producer and facility's manager of a gun show  
26 or event shall prepare an annual event and security plan and  
27 schedule that shall include, at a minimum, the following  
28 information for each show or event:

29 (1) The type of show or event, including, but not limited to,  
30 antique or general firearms and ammunition.

31 (2) The estimated number of vendors offering firearms or  
32 ammunition for sale or display.

33 (3) The estimated number of attendees.

34 (4) The number of entrances and exits at the gun show or event  
35 site.

36 (5) The location, dates, and times of the show or event.

37 (6) The contact person and telephone number for both the  
38 producer and the facility.

1 (7) The number of sworn peace officers employed by the  
2 producer or the facility’s manager who will be present at the show  
3 or event.

4 (8) The number of nonsworn security personnel employed by  
5 the producer or the facility’s manager who will be present at the  
6 show or event.

7 (b) The annual event and security plan shall be submitted by  
8 either the producer or the facility’s manager to the Department of  
9 Justice and the law enforcement agency with jurisdiction over the  
10 facility.

11 (c) If significant changes have been made since the annual plan  
12 was submitted, the producer shall, not later than 15 days before  
13 commencement of the gun show or event, submit to the department,  
14 the law enforcement agency with jurisdiction over the facility site,  
15 and the facility’s manager, a revised event and security plan,  
16 including a revised list of vendors that the producer knows, or  
17 reasonably should know, will be renting tables, space, or otherwise  
18 participating in the gun show or event.

19 (d) The event and security plan shall be approved by the  
20 facility’s manager before the event or show, after consultation with  
21 the law enforcement agency with jurisdiction over the facility.

22 (e) A gun show or event shall not commence unless the  
23 requirements of subdivisions (b), (c), and (d) are met.

24 SEC. 3. Section 27220 of the Penal Code is amended to read:

25 27220. (a) Within seven calendar days of the commencement  
26 of a gun show or event, but not later than noon on Friday for a  
27 show or event held on a weekend, the producer shall submit a list  
28 of all prospective vendors and designated firearms transfer agents  
29 who are licensed firearms dealers or ammunition vendors to the  
30 Department of Justice for the purpose of determining whether these  
31 prospective vendors and designated firearms transfer agents possess  
32 valid licenses and are thus eligible to participate as licensed dealers  
33 or ammunition vendors at the show or event.

34 (b) The department shall examine its records and if it determines  
35 that a dealer’s or vendor’s license is not valid, it shall notify the  
36 show or event producer of that fact before the show or event  
37 commences.

38 SEC. 4. Section 27225 of the Penal Code is amended to read:

39 27225. If a licensed firearms dealer or ammunition vendor fails  
40 to cooperate with a producer of a gun show or event, or fails to

1 comply with the applicable requirements of this article or Article  
2 2 (commencing with Section 27300), that person shall not be  
3 allowed to participate in that show or event.

4 SEC. 5. Section 27235 of the Penal Code is amended to read:

5 27235. Every producer of a gun show or event shall have a  
6 written contract with each gun show vendor selling firearms or  
7 ammunition at the show or event.

8 SEC. 6. Section 27240 of the Penal Code is amended to read:

9 27240. (a) The producer of a gun show or event shall require  
10 that signs be posted in a readily visible location at each public  
11 entrance to the show containing, but not limited to, the following  
12 notices:

13 (1) This gun show follows all federal, state, and local firearms,  
14 ammunition, and weapons laws, without exception.

15 (2) Any firearm carried onto the premises by any member of  
16 the public will be checked, cleared of any ammunition, and secured  
17 in a manner that prevents it from being operated, and an  
18 identification tag or sticker will be attached to the firearm before  
19 the person is allowed admittance to the show.

20 (3) No member of the public under the age of 18 years shall be  
21 admitted to the show unless accompanied by a parent, grandparent,  
22 or legal guardian.

23 (4) All firearms transfers between private parties at the show  
24 shall be conducted through a licensed dealer in accordance with  
25 applicable state and federal laws.

26 (5) Persons possessing firearms or ammunition at this facility  
27 shall have in their immediate possession government-issued photo  
28 identification, and display it upon request to any security officer  
29 or any peace officer, as defined in Section 830.

30 (6) All ammunition transfers between private parties at the show  
31 shall be conducted through a licensed dealer or ammunition vendor  
32 in accordance with applicable state and federal laws.

33 (b) The show producer shall post, in a readily visible location  
34 at each entrance to the parking lot at the show, signage that states:  
35 “The transfer of firearms or ammunition on the parking lot of this  
36 facility is a crime.”

37 SEC. 7. Section 27305 of the Penal Code is amended to read:

38 27305. All gun show or event vendors shall certify in writing  
39 to the producer that they:



1 (a) Will not display, possess, or offer for sale any firearms,  
2 ammunition, knives, or weapons for which possession or sale is  
3 prohibited.

4 (b) Acknowledge that they are responsible for knowing and  
5 complying with all applicable federal, state, and local laws dealing  
6 with the possession and transfer of firearms or ammunition.

7 (c) Will not engage in activities that incite or encourage hate  
8 crimes.

9 (d) Will process all transfers of firearms through licensed  
10 firearms dealers as required by state law.

11 (e) Will process all sales or transfers of ammunition through  
12 licensed firearms dealers or ammunition vendors as required by  
13 state law.

14 (f) Will verify that all firearms in their possession at the show  
15 or event will be unloaded, and that the firearms will be secured in  
16 a manner that prevents them from being operated except for brief  
17 periods when the mechanical condition of a firearm is being  
18 demonstrated to a prospective buyer.

19 (g) Have complied with the requirements of Section 27320.

20 (h) Will not display or possess black powder, or offer it for sale.

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22 27310. All firearms and ammunition transfers or sales at a gun  
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24 federal laws.

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33 producer all of the following information relative to the vendor,  
34 the vendor’s employees, and other persons, compensated or not,  
35 who will be working or otherwise providing services to the public  
36 at the vendor’s display space:

- 37 (1) The person’s complete name.
- 38 (2) The person’s driver’s license or state-issued identification  
39 card number.
- 40 (3) The person’s date of birth.

1 (4) The person’s certificate of eligibility number pursuant to  
2 Section 26915 or 30347 of the Penal Code.

3 (b) The producer shall keep the information at the onsite  
4 headquarters of the show or event for the duration of the show or  
5 event, and at the producer’s regular place of business for two weeks  
6 after the conclusion of the show or event. The producer shall make  
7 the information available upon request to any sworn peace officer  
8 for purposes of the officer’s official law enforcement duties.

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10 27340. (a) Persons other than show or event security personnel,  
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12 ammunition that is separate from a firearm onto the gun show or  
13 event premises shall sign in ink the tag or sticker that is attached  
14 to the firearm prior to being allowed admittance to the show or  
15 event, as provided for in subdivision (b) and (c).

16 (b) All firearms carried onto the premises of a gun show or event  
17 by members of the public shall be checked, cleared of any  
18 ammunition, secured in a manner that prevents them from being  
19 operated, and an identification tag or sticker shall be attached to  
20 the firearm, prior to the person being allowed admittance to the  
21 show. The identification tag or sticker shall state that all firearms  
22 transfers between private parties at the show or event shall be  
23 conducted through a licensed dealer in accordance with applicable  
24 state and federal laws. The person possessing the firearm shall  
25 complete the following information on the tag before it is attached  
26 to the firearm:

27 (1) The gun owner’s signature.

28 (2) The gun owner’s printed name.

29 (3) The identification number from the gun owner’s  
30 government-issued photo identification.

31 (c) Any ammunition carried onto the premises of a gun show  
32 or event by members of the public shall be checked and secured  
33 in a manner that prevents the ammunition from being discharged.  
34 An identification tag or sticker shall be attached to the ammunition  
35 prior to the person being allowed admittance to the show. The  
36 identification tag or sticker shall state that all ammunition transfers  
37 between private parties at the show or event shall be conducted  
38 through a licensed dealer or ammunition vendor in accordance  
39 with applicable state and federal laws. The person possessing the

1 ammunition shall complete the following information on the tag  
2 before it is attached to the ammunition:

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- 4 (2) The ammunition owner’s printed name.
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16 ~~increased at a rate not to exceed any increase in the California~~  
17 ~~Consumer Price Index as compiled and reported by the Department~~  
18 ~~of Industrial Relations, and submit the fee to the Department of~~  
19 ~~Justice for deposit in the Dealers’ Record of Sale Special Account~~  
20 ~~(DRS).~~

21 ~~(b) The fee established pursuant to subdivision (a) shall fund~~  
22 ~~the following:~~

- 23 ~~(1) The department for the cost of furnishing this information.~~
- 24 ~~(2) The department for the cost of meeting its obligations under~~  
25 ~~paragraph (2) of subdivision (b) of Section 8100 of the Welfare~~  
26 ~~and Institutions Code.~~
- 27 ~~(3) Local mental health facilities for state-mandated local costs~~  
28 ~~resulting from the reporting requirements imposed by Section 8103~~  
29 ~~of the Welfare and Institutions Code.~~
- 30 ~~(4) The State Department of State Hospitals for the costs~~  
31 ~~resulting from the requirements imposed by Section 8104 of the~~  
32 ~~Welfare and Institutions Code.~~
- 33 ~~(5) Local mental hospitals, sanitariums, and institutions for~~  
34 ~~state-mandated local costs resulting from the reporting~~  
35 ~~requirements imposed by Section 8105 of the Welfare and~~  
36 ~~Institutions Code.~~
- 37 ~~(6) Local law enforcement agencies for state-mandated local~~  
38 ~~costs resulting from the notification requirements set forth in~~  
39 ~~subdivision (a) of Section 6385 of the Family Code.~~

1 ~~(7) Local law enforcement agencies for state-mandated local~~  
2 ~~costs resulting from the notification requirements set forth in~~  
3 ~~subdivision (e) of Section 8105 of the Welfare and Institutions~~  
4 ~~Code.~~

5 ~~(8) For the actual costs associated with the electronic or~~  
6 ~~telephonic transfer of information pursuant to Section 28215.~~

7 ~~(9) The Department of Food and Agriculture for the costs~~  
8 ~~resulting from the notification provisions set forth in Section 5343.5~~  
9 ~~of the Food and Agricultural Code.~~

10 ~~(10) The department for the costs associated with subdivisions~~  
11 ~~(d) and (e) of Section 27560.~~

12 ~~(11) The department for the costs associated with funding~~  
13 ~~Department of Justice firearms-related regulatory and enforcement~~  
14 ~~activities related to the sale, purchase, possession, loan, or transfer~~  
15 ~~of firearms pursuant to any provision listed in Section 16580.~~

16 ~~(e) The fee established pursuant to subdivision (a) shall fund~~  
17 ~~the actual processing costs of the department, the estimated~~  
18 ~~reasonable costs of the local mental health facilities for complying~~  
19 ~~with the reporting requirements imposed by paragraph (3) of~~  
20 ~~subdivision (b), the costs of the State Department of State Hospitals~~  
21 ~~for complying with the requirements imposed by paragraph (4) of~~  
22 ~~subdivision (b), the estimated reasonable costs of local mental~~  
23 ~~hospitals, sanitariums, and institutions for complying with the~~  
24 ~~reporting requirements imposed by paragraph (5) of subdivision~~  
25 ~~(b), the estimated reasonable costs of local law enforcement~~  
26 ~~agencies for complying with the notification requirements set forth~~  
27 ~~in subdivision (a) of Section 6385 of the Family Code, the~~  
28 ~~estimated reasonable costs of local law enforcement agencies for~~  
29 ~~complying with the notification requirements set forth in~~  
30 ~~subdivision (e) of Section 8105 of the Welfare and Institutions~~  
31 ~~Code imposed by paragraph (7) of subdivision (b), the estimated~~  
32 ~~reasonable costs of the Department of Food and Agriculture for~~  
33 ~~the costs resulting from the notification provisions set forth in~~  
34 ~~Section 5343.5 of the Food and Agricultural Code, the estimated~~  
35 ~~reasonable costs of the department for the costs associated with~~  
36 ~~subdivisions (d) and (e) of Section 27560, the estimated reasonable~~  
37 ~~costs of department firearms-related regulatory and enforcement~~  
38 ~~activities related to the sale, purchase, possession, loan, or transfer~~  
39 ~~of firearms pursuant to any provision listed in Section 16580.~~

1 ~~(d) Where the electronic or telephonic transfer of applicant~~  
2 ~~information is used, the department shall establish a system to be~~  
3 ~~used for the submission of the fees described in this section to the~~  
4 ~~department.~~

5 ~~SEC. 14. Section 28230 of the Penal Code is amended to read:~~

6 ~~28230. (a) The Department of Justice shall charge a fee of~~  
7 ~~thirty-two dollars and nineteen cents (32.19), except that the fee~~  
8 ~~may be increased at a rate not to exceed any increase in the~~  
9 ~~California Consumer Price Index as compiled and reported by the~~  
10 ~~Department of Industrial Relations, to reimburse it for each of the~~  
11 ~~following:~~

12 ~~(1) For the actual costs associated with the preparation, sale,~~  
13 ~~processing, and filing of forms or reports required or utilized~~  
14 ~~pursuant to any provision listed in subdivision (a) of Section 16585.~~

15 ~~(2) For the actual processing costs associated with the~~  
16 ~~submission of a Dealers' Record of Sale to the department.~~

17 ~~(3) For the actual costs associated with the preparation, sale,~~  
18 ~~processing, and filing of reports utilized pursuant to Section 26905,~~  
19 ~~27565, 27875, 27966, or 28000, paragraph (1) of subdivision (a)~~  
20 ~~of Section 27560, or paragraphs (1) and (2) of subdivision (a) of,~~  
21 ~~and subdivisions (b), (c), and (d) of, Section 27920.~~

22 ~~(4) For the actual costs associated with the electronic or~~  
23 ~~telephonic transfer of information pursuant to Section 28215.~~

24 ~~(b) If the department charges a fee pursuant to paragraph (2) of~~  
25 ~~subdivision (a), it shall be charged in the same amount to all~~  
26 ~~categories of transaction that are within that paragraph.~~

27 ~~(e) Any costs incurred by the Department of Justice to~~  
28 ~~implement this section shall be reimbursed from fees collected~~  
29 ~~and charged pursuant to this section. No fees shall be charged to~~  
30 ~~the dealer pursuant to Section 28225 for implementing this section.~~

31 ~~SEC. 13. Section 28225 of the Penal Code is amended to read:~~

32 ~~28225. (a) The Department of Justice may require the dealer~~  
33 ~~to charge each firearm purchaser a fee not to exceed fourteen~~  
34 ~~dollars (\$14), except that the fee may be increased at a rate not to~~  
35 ~~exceed any increase in the California Consumer Price Index as~~  
36 ~~compiled and reported by the Department of Industrial Relations.~~

37 ~~(b) The fee under subdivision (a) shall be no more than is~~  
38 ~~necessary to fund the following:~~

39 ~~(1) The department for the cost of furnishing this information.~~

1 (2) The department for the cost of meeting its obligations under  
2 paragraph (2) of subdivision (b) of Section 8100 of the Welfare  
3 and Institutions Code.

4 (3) Local mental health facilities for state-mandated local costs  
5 resulting from the reporting requirements imposed by Section 8103  
6 of the Welfare and Institutions Code.

7 (4) The State Department of State Hospitals for the costs  
8 resulting from the requirements imposed by Section 8104 of the  
9 Welfare and Institutions Code.

10 (5) Local mental hospitals, sanitariums, and institutions for  
11 state-mandated local costs resulting from the reporting  
12 requirements imposed by Section 8105 of the Welfare and  
13 Institutions Code.

14 (6) Local law enforcement agencies for state-mandated local  
15 costs resulting from the notification requirements set forth in  
16 subdivision (a) of Section 6385 of the Family Code.

17 (7) Local law enforcement agencies for state-mandated local  
18 costs resulting from the notification requirements set forth in  
19 subdivision (c) of Section 8105 of the Welfare and Institutions  
20 Code.

21 (8) For the actual costs associated with the electronic or  
22 telephonic transfer of information pursuant to Section 28215.

23 (9) The Department of Food and Agriculture for the costs  
24 resulting from the notification provisions set forth in Section 5343.5  
25 of the Food and Agricultural Code.

26 (10) The department for the costs associated with subdivisions  
27 (d) and (e) of Section 27560.

28 ~~(11) The department for the costs associated with funding~~  
29 ~~Department of Justice firearms-related regulatory and enforcement~~  
30 ~~activities related to the sale, purchase, possession, loan, or transfer~~  
31 ~~of firearms pursuant to any provision listed in Section 16580.~~

32 (c) The fee established pursuant to this section shall not exceed  
33 the sum of the actual processing costs of the department, the  
34 estimated reasonable costs of the local mental health facilities for  
35 complying with the reporting requirements imposed by paragraph  
36 (3) of subdivision (b), the costs of the State Department of State  
37 Hospitals for complying with the requirements imposed by  
38 paragraph (4) of subdivision (b), the estimated reasonable costs  
39 of local mental hospitals, sanitariums, and institutions for  
40 complying with the reporting requirements imposed by paragraph



1 (5) of subdivision (b), the estimated reasonable costs of local law  
 2 enforcement agencies for complying with the notification  
 3 requirements set forth in subdivision (a) of Section 6385 of the  
 4 Family Code, the estimated reasonable costs of local law  
 5 enforcement agencies for complying with the notification  
 6 requirements set forth in subdivision (c) of Section 8105 of the  
 7 Welfare and Institutions Code imposed by paragraph (7) of  
 8 subdivision (b), the estimated reasonable costs of the Department  
 9 of Food and Agriculture for the costs resulting from the notification  
 10 provisions set forth in Section 5343.5 of the Food and Agricultural  
 11 Code, *and* the estimated reasonable costs of the department for  
 12 the costs associated with subdivisions (d) and (e) of Section ~~27560,~~  
 13 ~~and the estimated reasonable costs of department firearms-related~~  
 14 ~~regulatory and enforcement activities related to the sale, purchase,~~  
 15 ~~possession, loan, or transfer of firearms pursuant to any provision~~  
 16 ~~listed in Section 16580: 27560.~~

17 (d) Where the electronic or telephonic transfer of applicant  
 18 information is used, the department shall establish a system to be  
 19 used for the submission of the fees described in this section to the  
 20 department.

21 *SEC. 14. Section 28233 is added to the Penal Code, to read:*  
 22 *28233. (a) The Department of Justice may, in addition to the*  
 23 *fee described in Sections 28225 and 28230, require a dealer to*  
 24 *charge each firearm purchaser a fee in the amount of thirteen*  
 25 *dollars and nineteen cents (\$13.19).*

26 *(b) Moneys received by the department pursuant to this section*  
 27 *shall be deposited in the Dealers' Record of Sale Supplemental*  
 28 *Account of the General Fund, which is hereby created, to be*  
 29 *available, upon appropriation by the Legislature, for expenditure*  
 30 *by the department to offset the reasonable costs of firearms-related*  
 31 *regulatory and enforcement activities related to the sale, purchase,*  
 32 *possession, loan, or transfer of firearms pursuant to any provision*  
 33 *listed in Section 16580.*

34 *(c) The fee described in subdivision (a) may be increased at a*  
 35 *rate no more than any increase in the California Consumer Price*  
 36 *Index as compiled and reported by the Department of Industrial*  
 37 *Relations, but not to exceed the reasonable cost of regulation to*  
 38 *the department.*

39 *SEC. 15. Section 28235 of the Penal Code is amended to read:*

1 28235. ~~All~~ Except as otherwise provided in Section 28233,  
2 moneys received by the department pursuant to this article shall  
3 be deposited in the Dealers' Record of Sale Special Account of  
4 the General Fund, which is hereby created, to be available, upon  
5 appropriation by the Legislature, for expenditure by the department  
6 to offset the costs incurred pursuant to any of the following:

- 7 (a) This article.
- 8 (b) Section 18910.
- 9 (c) Section 27555.
- 10 (d) Subdivisions (d) and (e) of Section 27560.
- 11 (e) Chapter 4.1 (commencing with Section 28010).
- 12 (f) Article 6 (commencing with Section 28450).
- 13 (g) Section 31110.
- 14 (h) Section 31115.
- 15 (i) Subdivision (a) of Section 32020.
- 16 (j) Section 32670.
- 17 (k) Section 33320.

18 *SEC. 16. Section 28240 of the Penal Code is amended to read:*

19 ~~28240. (a) Until January 1, 2014, only one fee shall be charged~~  
20 ~~pursuant to this article for a single transaction on the same date~~  
21 ~~for the sale of any number of firearms that are not handguns, or~~  
22 ~~for the taking of possession of those firearms.~~

23 ~~(b) Beginning January 1, 2014, only one fee shall~~  
24 ~~28240. Each fee prescribed in this article shall only be charged~~  
25 ~~pursuant to this article once for a single transaction on the same~~  
26 ~~date for taking title or possession of any number of firearms.~~

27 ~~SEC. 15.~~

28 *SEC. 17.* No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.

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# EXHIBIT 6

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THIRD READING

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Bill No: AB 1669  
Author: Bonta (D)  
Amended: 6/20/19 in Senate  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 5-2, 7/9/19  
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener  
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19  
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski  
NOES: Bates, Jones

ASSEMBLY FLOOR: 49-22, 5/28/19 - See last page for vote

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**SUBJECT:** Firearms: gun shows and events

**SOURCE:** California Department of Justice

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**DIGEST:** This bill updates existing law by applying the same gun show regulations that already apply to firearms dealers to ammunition vendors, and reduces the amount of the Dealers' Record of Sale (DROS) fee to \$1 and removes the authority of the Department of Justice (DOJ) to spend the proceeds of the fee on specified regulatory costs. This bill also authorizes DOJ to charge an additional fee to the DROS fee in the amount of \$31.91 per firearms transaction to cover specified costs related to firearms regulatory enforcement.

**ANALYSIS:**

Existing law:

- 1) Authorizes DOJ to require the dealer to charge each firearm purchaser a DROS fee not to exceed \$14, and allows that fee to be adjusted upward at a rate not to

- exceed the increase in the California Consumer Price Index. (Pen Code, § 28225, subd. (a).)
- 2) States that the DROS fee shall be no more than what is necessary to fund specified costs to the DOJ. (Pen Code, § 28225, subs. (b) and (c).)
  - 3) Authorizes DOJ to require each dealer to charge each firearm purchaser or transferee a fee not to exceed \$1 for each firearm transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index. (Pen. Code, § 23690.)
  - 4) Authorizes DOJ to require firearms dealers to charge each person who obtains a firearm a fee not to exceed \$5 for each transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index. (Pen. Code, § 28300.)
  - 5) Authorizes a certified instructor of the firearm safety test to charge a fee of \$25, \$15 of which is to be paid to DOJ to cover its costs in carrying out and enforcing firearms laws. (Pen. Code, § 31650.)
  - 6) Authorizes DOJ to allow a certified instructor to not to exceed \$15, for a duplicate firearm safety certificate. (Pen. Code, § 31660.)
  - 7) Requires the producer of a gun show or event, prior to the show or event, upon written request by the law enforcement agency with jurisdiction over the facility, to provide a list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms, as specified. (Pen. Code, § 27205, subd. (a).)
  - 8) Requires the producer of a gun show or event, for every day the gun show or event operates, upon written request by the law enforcement agency, to provide an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms. (Pen. Code, § 27205, subd. (b).)
  - 9) States that the following information may be requested by the law enforcement agency in regards to any firearms dealer:
    - a) The vendor's complete name; and

- b) A driver's license or identification card number. (Pen. Code, § 27205, subd. (d).)
- 10) States that the producer and facility's manager of a gun show or event shall prepare an annual event and security plan and schedule that shall include, at a minimum, the following information for each show or event:
- a) The type of show or event, including, but not limited to, antique or general firearms; and
  - b) The estimated number of vendors offering firearms for sale or display. (Pen. Code, § 27210.)
- 11) Requires that within seven calendar days of the commencement of a gun show or event, but not later than noon on Friday for a show or event held on a weekend, the producer shall submit a list of all prospective firearms dealers to the DOJ for the purpose of determining whether these prospective vendors and designated firearms transfer agents possess valid licenses and are thus eligible to participate as firearms dealers at the show or event. (Pen. Code, § 27220, subd. (a).)
- 12) Requires DOJ to examine its records and if it determines that a vendor's license is not valid, it shall notify the show or event producer of that fact before the show or event commences. (Pen. Code, § 27220, subd. (b).)
- 13) Prohibits a firearms dealer who fails to cooperate with a producer of a gun show or event, or fails to comply with gun show regulations, from participating in the show or event. (Pen. Code § 27225.)
- 14) Requires every producer of a gun show or event to have a written contract with each gun show vendor selling firearms at the show or event. (Pen Code, § 27235.)
- 15) Requires the producer of a gun show or event to post signs in a readily visible location at each public entrance to the show containing the following notices, among others:
- a) This gun show follows all federal, state, and local firearms and weapons laws, without exception; and
  - b) Persons possessing firearms at this facility must shall have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined. (Pen. Code, § 27240, subd. (a).)



- 16) Requires the show producer to post, in a readily visible location at each entrance to the parking lot at the show, signage that states: “The transfer of firearms in the parking lot of this facility is a crime.” (Pen. Code, § 27240, subd. (b).)
- 17) Requires all gun show or event vendors to certify in writing to the producer that they, among other things:
  - a) Will not display, possess, or offer for sale any firearms, knives, or weapons for which possession or sale is prohibited;
  - b) Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms; and,
  - c) Will process all sales or transfers of firearms through licensed firearms dealers as required by state law. (Pen. Code, § 27305.)
- 18) Requires each ammunition vendor, before commencement of a gun show or event, to provide to the producer all of the following information relative to the vendor, the vendor’s employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor’s display space:
  - a) The person’s complete name;
  - b) The person’s driver’s license or state-issued identification card number; and,
  - c) The person’s date of birth. (Pen. Code, § 27320.)
- 19) Provides that any firearm carried onto the premises of a gun show or event by members of the public shall be checked and secured in a manner that prevents the firearm from being discharged. (Pen. Code, § 27340, subd. (a).)

This bill:

- 1) Updates existing law by requiring ammunition vendors who participate in gun shows to follow the same regulations as that are currently required of firearms dealers who participate in gun shows.
- 2) Reduces the DROS fee that a firearm dealer may charge to \$1 from the existing \$14 fee.
- 3) Authorizes the DOJ to charge a new fee of \$31.19 on a firearms-related transaction in order to cover the costs of the DOJ's firearms-related regulatory and enforcement activities.

- 4) Establishes the DROS Supplemental Account of the General Fund, into which proceeds of the new fee are to be deposited and made available, upon appropriation by the Legislature, for expenditure by the DOJ to offset the costs of its firearms-related regulatory and enforcement activity.
- 5) Allows the DOJ to increase the fee at a rate not to exceed any increase in the California Consumer Price Index.

## Comments

Proposition 63, the Safety for All Act, passed in 2016 by the people of California, contained several provisions related to firearms and ammunition. Among other things, it required sales of ammunition to be conducted by or processed through a licensed dealer so that a background check could be conducted. Prop 63 also defined the term “ammunition vendor” and established that a current firearms dealer was to be automatically considered an “ammunition vendor.”

Currently, firearms dealers must adhere to a set of standards to be eligible vendors at gun shows or gun show events. Among other things, they are required to notify DOJ, provide identification and other information, and certify that any firearm transfer will be conducted through a licensed firearms dealer, ensuring that the purchaser undergoes a background check. Ammunition vendors who do not sell firearms, however, are not required to adhere to those requirements prior to participating in gun shows.

This discrepancy has caused an inconsistency in the way in which firearms and ammunition vendors are treated at California gun shows. Independent ammunition vendors, those that only sell ammunition and are federally licensed, can sell ammunition at gun shows in California without being required to obtain the same state licenses that are required of California based vendors. Additionally, gun show organizers and promoters are exempted from having to include independent ammunition vendors in the list of expected dealers that must be reported to the DOJ within a week of the event. Knowing who is expected at a gun show gives DOJ the ability to prepare for possible enforcement actions against vendors that have a history of problematic practices such as allowing straw purchases. This bill eliminates the discrepancy by requiring ammunition vendors to abide by the same requirements as firearms dealers.

The DROS fee was first established in 1982 in order to cover DOJ’s cost of performing a background check on firearms purchasers. The initial DROS Fee was \$2.25. Over the years, the amount of the DROS Fee increased, and so did the number of activities that it funded. In 1995, the Legislature amended the statute to

fix the DROS Fee at \$14 and allowed it to be adjusted to account for inflation. In 2004, the DOJ adopted regulations adjusting the fee to \$19. The DROS fee is one of several fees that is attached to the purchase of a new firearm. In addition, there is a \$1 firearm safety fee, and a \$5 firearms safety and enforcement fee.

The DROS fee is implemented in two separate statutes, one that allows DOJ to charge the fee to the dealer for each firearms purchased and another that effectively allows the firearms dealer to pass that cost along to the purchaser. This bill increases that fee to \$32.19. According to DOJ, this change is necessary because over the last several years, program activities have been initiated and funded from the DROS Special Account (DROS Fund) that were unrelated to previous DROS responsibilities without a corresponding increase to the DROS Fund. DOJ asserts that the DROS Fund will be empty by fiscal year 2020-21. They further state that the \$32.19 fee is calculated to create sufficient revenues to avert the need for additional General Fund or significant programmatic service reductions.

Although the initial DROS fee was only intended to cover the cost of background checks, subsequent legislation has contemplated that DROS funds be used for other purposes, such as enforcement of the Armed Prohibited Persons System (APPS.) Specifically, SB 819 (Leno, Chapter 743, Statutes of 2011) allowed DOJ to utilize the DROS Account for the additional, limited purpose of funding enforcement of the APPS. Under the provisions of this bill, DOJ will be authorized to adjust the DROS fee in order to fund any firearms activity that is required of DOJ for which there is no sustainable source of funding.

Recently, the DROS fee was challenged in court by a group of plaintiffs made up of gun owners and enthusiasts. (*Gentry v. Becerra*, (Mar. 4, 2019, No. 34-2013-80001667) Sacramento Sup. Ct.) The plaintiffs argued that DROS fee was not properly calculated, that DOJ was using DROS funds outside of their statutory authority, and that the fee was in fact a tax, thus violating the California Constitution. (*Id.* at 1.) Ultimately the superior court ruled against the plaintiffs, finding that the DROS fee was a reasonable approximation of the costs of the government-provided regulatory services and that the DROS fee was not a tax. (*Id.* at 13.) Because this bill both increases the DROS fee and expands the activities for which that fee can be used, it is likely to subject the fee to renewed legal challenges.

This bill creates a DROS Supplemental Subaccount (Supplemental Fund) within the DROS Special Account of the General Fund to be available upon appropriation by the Legislature for expenditure by DOJ to offset the reasonable costs of firearms-related regulatory and enforcement activities. This bill permits DOJ to

require a dealer to charge each firearm purchaser a fee in the amount of \$31.19 upon the purchase of a firearm. Additionally, this bill allows the DOJ to increase the fee at a rate not to exceed any increase in the California Consumer Price Index.

According to the sponsor of this bill, DOJ, the purpose of this provision is to permit the DOJ to use this Supplemental Fund for background checks. Under existing law, the DROS fee may be used for reimbursing costs to local mental health facilities, the Department of State Hospitals, local law enforcement, and the Department of Food and Agriculture for mandated costs associated with reporting, storing, tracking, and posting records and information related to firearms prohibitions. (Pen. Code, § 28225, subds. (b)(1)-(11).) Under the rubric created by this bill, the new \$1 DROS fund would be used for these purposes. The new Supplemental Fund, which imposes a \$31.19 fee, would be used by DOJ for firearms enforcement purposes and background checks.

According to calculations used in budget projections, about \$20.6 million in revenues is estimated to be deposited into the DROS Special Account in 2018-2019 to support about \$24 million in expenditures. The DROS Special Account has experienced operational shortfalls since 2012-2013. This year, in an effort to avoid further shortfalls, DOJ enforcement of the APPS was moved to a general fund allocation in the budget.

Even though the DROS Special Account has now received assistance in an effort to make it more solvent going forward, DOJ is on the precipice of an increased workload in terms of background check mandates. On July, 1, 2019, the time this analysis is being drafted, California is imposing mandated background checks for ammunition sales pursuant to the requirements of Proposition 63. Under the new background check procedures, customers will have to receive a background check every time they make an ammunition purchase, and pay a \$1 fee. Those customers who don't already have their information in the DOJ system for the point-of-sale screenings will have to pay up to \$20 for an initial screening. It is unclear whether these fees will be sufficient to compensate DOJ for the additional workload imposed by ammunition background checks.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Courts: Unknown, potentially-significant workload cost pressures to the court to adjudicate charges brought against defendants who violate a rule or requirement with respect to ammunition as proscribed by this bill. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed

court services and would put pressure on the General Fund to fund additional staff and resources. For example, the Budget Act of 2019 appropriated \$41.8 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations. (General Fund\*)

DROS Special Account & DROS Supplemental Subaccount (DROS Subaccount): Unknown, likely-major revenue, potentially around \$10.5 million annually, resulting from the increased fee—a net increase of \$13.19 per transaction—that would be imposed by this bill. The actual impact would depend on the number of DROS transactions (i.e., firearm sales and transfers) conducted each year.

The revenue generated from the \$31.19 fee would be deposited into the DROS Subaccount to offset costs related to specified DOJ firearm-related regulatory and enforcement activities, while a reduced \$1 DROS fee would be deposited into the DROS Special Account to fund specified reporting, notification, and other mandates imposed on local and state entities.

\*Trial Court Trust Fund

**SUPPORT:** (Verified 8/30/19)

California Department of Justice (source)  
Bay Area Student Activists  
Brady United Against Gun Violence California  
California Academy of Family Physicians  
California Academy of Preventive Medicine

**OPPOSITION:** (Verified 8/30/19)

California Sportsman's Lobby  
Gun Owners of California  
National Rifle Association  
National Shooting Sports Foundation  
Outdoor Sportsmen's Coalition of California  
Safari Club International  
Safari Club International Foundation

**ARGUMENTS IN SUPPORT:** According to the California Department of Justice:

Attorney General Becerra is pleased to sponsor AB 1669, a bill that addresses the inconsistency with which firearms and ammunition vendors at California gun shows are treated under state law. The bill would also grant the

Department of Justice (DOJ) the authority to adjust the Dealer Record of Sale (DROS) fee.

Proposition 63, the Safety for All Act, passed in 2016 and among several provisions related to firearms and ammunition, required sales of ammunition to be conducted by or processed through a licensed dealer. Unfortunately, not all vendors were covered by the resulting law. “Independent ammunition vendors” – those that only sell ammunition, are federally-licensed, and are based outside of California – can sell ammunition at gun shows without being required to obtain the same state licenses that are required of California-based vendors. AB 1669 closes this loophole by requiring any entity selling ammunition in the state to be licensed by the state.

Another loophole allows a gun show organizer or promoter from having to include independent ammunition vendors in the list of expected dealers that must be reported to the DOJ within a week of the event. Knowing who is expected at a gun show gives DOJ the ability to prepare for possible enforcement actions against vendors that have a history of problematic practices such as allowing straw purchases. AB 1669 closes the loophole and requires independent ammunition vendors to be included in the report to the DOJ.

Finally, AB 1669 would grant DOJ the authority to adjust the DROS fee. The DROS fee is collected each time a firearm is sold by a licensed dealer in California and is meant to address the cost of the background check as well as other program costs. Current law sets the DROS fee at \$14.00 and allows for the fee to be increased annually by the Consumer Price index as compiled and reported by the California Department of Industrial Relations. The fourteen dollars was established in 1995 and has been raised only once – to \$19.00 in 2004.

Over the past several years numerous bills were signed into law that drew from the DROS Special Account. During that time there were no compensating increases in the base DROS fee to cover the resulting increase in DOJ’s workload. Even if the DOJ had raised the fee each year since 2004 to account for any increase in the Consumer Price index, there would still be a shortfall of \$5.38 per transaction. The Governor’s 2019-20 Budget recognized the need to stabilize funding for DROS programs and included \$6.9 million in General Funds to address some of the recent workload increases. Unfortunately, this amount does not fully cover the unfunded workload.



AB 1669 proposes to raise the base DROS fee to \$32.19 to fund current costs. Without this bill, the DROS fund will continue to decline and will become negative in Fiscal Year 2020-21. The proposed adjustment will create sufficient revenues to avert the need for additional General Fund or significant service reductions. In anticipation of future legislation, AB 1669 would also provide DOJ with the authority to readjust the fee as new laws that are funded by the DROS Special Account take effect.

**ARGUMENTS IN OPPOSITION:** According to the California Sportsman's Lobby:

This is to inform you of the continued opposition of CSL to AB 1669 that would dramatically increase the total Dealers Record of Sale (DROS) fees and needlessly change the DROS fee structure as provided for in existing Penal Code Sections 28225, 28230, 28235, and 28240.

This proposal would raise the total DROS fee amount paid by firearms purchasers to @32.19, an increase of 69% over the current DROS fee of \$19.00 (the existing base fee of \$14.00 as adjusted by the California Consumer Price Index).

It would do so by moving some of the current DROS fee cost items [regulatory and enforcement, section 28225 to the proposed new section (28233) and imposing an additional new "fee" of \$31.19.

The bill as now amended reduces the current \$14.00 DROS fee provided for in section 28225 to \$1.00 but increases the total amount to be paid to \$32.19 by adding another and much higher in the new section 28233.

This would be a net fee increase of \$13.19 that would be paid by a purchaser of a firearm. Yet, there is nothing new in DOJ program costs that would justify the additional "fee."

As proposed in AB 1669, section 28225 would still have ten subject areas of duties for DOJ to perform. However, the bill would reduce the current level of DROS fee funding for these duties combined to just \$1.00. If enacted, DOJ would no doubt soon ask the legislature for more funding via yet another increase in the DROS fee. Such a request from DOJ is considered inevitable if AB 1669 as proposed becomes law.

Thus, AB 1669 would create a situation that would likely result in even higher future fees being proposed for lawful purchasers of firearms.

There has been no rational justification related to the purchase of a firearm by a lawful individual offered for such a massive increase in fees. It appears completely arbitrary.

The total fees paid by a prospective firearm purchaser or other transferee are already very high. AB 1669 would increase them from \$25.00 to \$38.19. This is clearly an excessive amount of increase, especially since no additional services would be received by the fee payer.

ASSEMBLY FLOOR: 49-22, 5/28/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Mark Stone, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Chen, Choi, Cunningham, Dahle, Diep, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Petrie-Norris, Salas, Voepel, Waldron

NO VOTE RECORDED: Arambula, Boerner Horvath, Cervantes, Cooley, Cooper, Eduardo Garcia, Gray, Irwin, Ting

Prepared by: Gabe Caswell / PUB. S. /

9/1/19 10:57:44

\*\*\*\* END \*\*\*\*

# EXHIBIT 7

## CONCURRENCE IN SENATE AMENDMENTS

AB 1669 (Bonta)

As Amended June 20, 2019

Majority vote

**SUMMARY:**

Updates existing law by applying the same gun show regulations that already apply to firearms dealers to ammunition vendors, reduces the amount of the Dealer's Record of Sale (DROS) fee from \$14 to \$1, and authorizes the Department of Justice (DOJ) to charge a new fee of \$31.19 for a firearms transaction which is to be deposited into the DROS Supplemental Subaccount.

**The Senate Amendments:**

- 1) Reduce the current DROS fee from \$14 to \$1.
- 2) Authorize the DOJ to charge an additional fee of up to \$31.19 to be deposited into the DROS Supplemental Subaccount, which the amendments also create.
- 3) Expand the list of regulatory and enforcement activities on which the DOJ can spend its DROS Supplemental Subaccount funds to include manufacturing and unlawful or lawful possession of firearms.

**COMMENTS:****According to the Author:**

"AB 1669 will promote greater public safety and more a comprehensive policy enforcement model for independent ammunition vendors. Currently, existing regulations under Proposition 63 set the bar higher for firearms dealers who also sell ammunition. Independent ammunition vendors do not receive the same scrutiny. The discrepancy needs to be corrected so law enforcement can receive adequate information about all ammunition vendors. By removing this discrepancy and increasing the per transaction fee to more accurately offset the enforcement costs of the program, the public can have greater surety that all ammunition vendors are complying with California's laws."

**Arguments in Support:**

According to the bill's sponsor, Xavier Becerra, the Attorney General of California: "Proposition 63, the Safety for All Act, passed in 2016 and among several provisions related to firearms and ammunition, required sales of ammunition to be conducted by or processed through a licensed dealer. Unfortunately, not all vendors were covered by the resulting law. "Independent ammunition vendors" – those that only sell ammunition, are federally-licensed, and are based outside of California – can sell ammunition at gun shows without being required to obtain the same state licenses that are required of California-based vendors. AB 1669 closes this loophole by requiring any entity selling ammunition in the state to be licensed by the state.

"Over the past several years numerous bills were signed into law that drew from the DROS Special Account. During that time there were no compensating increases in the base DROS fee to cover the resulting increase in DOJ's workload. Even if the DOJ had raised the fee each year since 2004 to account for any increase in the Consumer Price index, there would still be a

shortfall of \$5.38 per transaction. The Governor's 2019-20 Budget recognized the need to stabilize funding for DROS programs and included \$6.9 million in General Funds to address some of the recent workload increases. Unfortunately, this amount does not fully cover the unfunded workload.

### **Arguments in Opposition:**

According to the National Shooting Sports Foundation, Inc.: "This is to inform you of the opposition National Shooting Sports Foundation to AB 1669 that would increase the cost of the Dealers Record of Sale (DROS) fee paid by firearms purchasers to fund '...any other activity not listed in this subdivision that is funded by DROS, or any other firearms-related activity required of the department for which no sustainable funding source is provided.'

"This proposed language is completely open-ended without any spending constraints and would give the Department of Justice a "blank check" to charge the DROS fund for any department costs as long as it could establish a connection to firearms.

...

"A fee is to be no higher than the actual costs of rendering the services provided, in this case the cost of the criminal and mental history background check conducted by the department to verify that a prospective purchaser is eligible to possess a firearm.

"The increases proposed in AB 1669 are thus a tax, not a fee."

### **FISCAL COMMENTS:**

According to the Senate Appropriations Committee:

- 1) Courts: Unknown, potentially-significant workload cost pressures to the court to adjudicate charges brought against defendants who violate a rule or requirement with respect to ammunition as proscribed by this measure. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. For example, the Budget Act of 2019 appropriated \$41.8 million from the General Fund to backfill continued reduction in fine and fee revenue for trial court operations. (General Fund\*)
- 2) DROS Special Account & DROS Supplemental Subaccount (DROS Subaccount): Unknown, likely-major revenue, potentially around \$10.5 million annually, resulting from the increased fee—a net increase of \$13.19 per transaction—that would be imposed by this measure. The actual impact would depend on the number of DROS transactions (i.e., firearm sales and transfers) conducted each year.
- 3) The revenue generated from the \$31.19 fee would be deposited into the DROS Subaccount to offset costs related to specified DOJ firearm-related regulatory and enforcement activities, while a reduced \$1 DROS fee would be deposited into the DROS Special Account to fund specified reporting, notification, and other mandates imposed on local and state entities.

\*Trial Court Trust Fund

**VOTES:****ASM PUBLIC SAFETY: 5-2-1****YES:** Jones-Sawyer, Bauer-Kahan, Quirk, Santiago, Wicks**NO:** Lackey, Diep**ABS, ABST OR NV:** Kamlager-Dove**ASM APPROPRIATIONS: 13-5-0****YES:** Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Jones-Sawyer, Maienschein, Petrie-Norris, Quirk, Robert Rivas**NO:** Bigelow, Brough, Diep, Fong, Obernolte**ASSEMBLY FLOOR: 49-22-9****YES:** Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Mark Stone, Weber, Wicks, Wood, Rendon**NO:** Bigelow, Brough, Chen, Choi, Cunningham, Dahle, Diep, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Petrie-Norris, Salas, Voepel, Waldron**ABS, ABST OR NV:** Arambula, Boerner Horvath, Cervantes, Cooley, Cooper, Eduardo Garcia, Gray, Irwin, Ting**SENATE FLOOR: 27-11-2****YES:** Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Hertzberg, Hill, Hueso, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener**NO:** Bates, Borgeas, Chang, Dahle, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk**ABS, ABST OR NV:** Hurtado, Roth**ASSEMBLY FLOOR: 51-18-11****YES:** Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Cooper, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon**NO:** Bigelow, Brough, Chen, Choi, Cunningham, Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Voepel, Waldron**ABS, ABST OR NV:** Arambula, Boerner Horvath, Cervantes, Cooley, Diep, Frazier, Eduardo Garcia, Gipson, Gray, Petrie-Norris, Salas**UPDATED:**

VERSION: June 20, 2019



CONSULTANT: Matthew Fleming / PUB. S. / (916) 319-3744

FN: 0002266

Document received by the CA 3rd District Court of Appeal.

# **EXHIBIT 8**

**STD 399**  
**Economic and Fiscal Impact Statement**  
**Addendum**

Existing law allows the Department to require a firearms dealer to charge each firearm purchaser a fee, called the “DROS Fee,” at the time of a transfer of firearms (a “DROS transaction”). The DROS Fee is currently \$19, as set by the CCR, Title 11, Section 4001, and authorized by Penal Code sections 28225 and 28230.

Assembly Bill (AB) 1669, effective January 1, 2020, decreases the fee authorized by Penal Code Section 28225 to \$1, and removes the reference, in that section, to pertinent firearms regulatory and enforcement activities.

AB 1669 adds a new section to the Penal Code, Section 28233, which authorizes a new \$31.19 fee for those specific firearms regulatory and enforcement activities. This emergency action amends Title 11, Section 4001 of the California Code of Regulations, to set the fee at \$31.19. Because the new fee in Section 28233 funds the activities previously funded by Section 28225, and because this fee is the principal fee charged at the time of each DROS transaction, the Department is naming the fee authorized by Section 28233 the “DROS Fee.”

**DROS Fee Revenue**

**Table 1** (below) shows revenue from the current DROS Fee, and the projected revenue that the Department anticipates will result from the adoption of these emergency regulations. This table does not include other sources of revenue that are also deposited into the DROS Fund (e.g., the fees authorized by Penal Code sections 23690 and 28300).

The first row shows the total number of actual and projected DROS transactions each year. Firearm sales numbers are relatively stable, but are sensitive to new legislation and anticipated political developments. The Department, without further information regarding future sales, projects that the level of transactions will remain steady in the ongoing years. The projected number of DROS transactions for this fiscal year and the next two fiscal years approximates an average of the number of DROS transactions in the last two fiscal years.

The second row shows the number of actual and projected *billable* DROS transactions each year. Per Penal Code section 28240, for a transaction of any number of firearms on the same date, only one billable fee may be charged. Because some people purchase multiple firearms in a single transaction, the number of billable DROS transactions are fewer than the total number of DROS transactions.

The third row shows the amount of actual and projected DROS Fee revenue. Through December 31, 2019, the DROS Fee is \$19 per billable DROS transaction. Because the Department will lose the authority to charge the \$19 DROS Fee on January 1, 2020, the projection for FY 2019-20 includes half of a year’s worth of billable DROS transactions at the \$19 fee level and half of a year’s worth of billable DROS transactions at the \$31.19 fee level.

The revenue estimates for FY 2020-21 and subsequent fiscal years reflect anticipated collections of the \$31.19 fee.

Without the adoption of this emergency regulation, the DROS Fee revenue is projected to drop to \$6,688,693 for FY 2019-20 (with all revenue generated prior to January 1, 2020) and \$0 thereafter.

### **DROS Fee Expenditures**

The DROS Fee is currently and, after January 1, 2020, will continue to be deposited in the DROS Fund. The monies are then appropriated by the Legislature for expenditure by the Department.

As authorized by Penal Code section 28233, the DROS Fee will pay for the costs of operating, in whole or in part, the firearms-related programs listed below.

<b>Program</b>	<b>Penal Code Statutes Implemented</b>
Automated Firearms Systems Unit*	18100, 30000
Armed & Prohibited Persons Section*	30000
Phone Resolution Unit	28220
Law Enforcement Release Unit*	33850, excepting those activities specified in section 33860
Carry Concealed Weapon Permits Unit*	26175, excepting those activities specified in section 26190
Background Clearance Unit	28220
Training, Information and Compliance Section*	Chapter 2, excepting those activities specified in section 26720
Customer Support Center	28215
Reporting and Quality Assurance Section	28215
Administration and Special Projects Section*	Penal Code, Part 6, Title 4

NOTE: An asterisk (\*) indicates that the program is not wholly funded through DROS Fee revenue. Certain functions of specified programs are funded through separate fee and General Fund monies, as specified in statute.

These programs are largely concerned with background checks on potential firearms purchasers or transferees. As required by Penal Code Part 6, Title 4, Div. 6, Chapter 6, a firearm dealer must submit to the Department certain identifying information for every potential firearm purchaser or transferee. As required by Penal Code Section 28220, the Department then examines available records to determine whether the potential purchaser or transferee is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm. If the Department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (e.g., convicted felons; persons found to be a danger to self or others because of a mental illness; persons addicted to the use of narcotics; et cetera), the Department immediately notifies the dealer and the pending sale is terminated.

More specifically: the Background Clearance Unit examines available records concerning the potential purchaser or transferee, and determines whether the individual is prohibited. The Phone Resolution Unit tracks down information that is not immediately available, such as incomplete court records. The Reporting and Quality Assurance Section reviews DROS records and determinations for accuracy. The Customer Support Center answers questions from dealers as to how to complete the Dealer Record of Sale. The Automated Firearms System Unit maintains the Automated Firearms System, a repository of firearm records maintained by the Department. The Armed & Prohibited Persons Section matches records of persons who own or have possessed a firearm (usually subsequent to a DROS transaction) with evidence that the person may be newly prohibited (e.g., a restraining order). Each of these activities is necessary to the process of ensuring that prohibited persons are not allowed to purchase or possess a firearm.

Over the years, the Department has been forced to significantly reduce DROS program activities and expenditures in order to operate within the available DROS Fund revenues, which are well below the appropriation levels established by the Legislature for these critical public safety firearms programs. For example, the Bureau of Firearms has maintained only baseline program functionalities with an average personnel vacancy rate of 18 percent over the last three years; has postponed significant facility infrastructure projects; and has delayed necessary information technology refreshes in order to maintain solvency in the DROS Fund. The Department anticipates that the cost to refresh and rebuild its aging IT systems will total approximately \$2,352,000 in FY 2020/21 for planning and other initial costs, and then \$8,275,000 annually for a five year period.

**Table 2** (below) shows a side-by-side comparison of projected DROS Fund revenues and estimated expenditures by the Department from the DROS Fund. DROS Fee revenue projections for each fiscal year are taken from Table 1.

The second row shows all other sources of revenue that are also deposited into the DROS Fund, such as other fees, transfers and other adjustments. Notably, for Fiscal Year 2020-21, two loans to the DROS Fund from the Firearms Safety and Enforcement Fund, totaling \$5,844,000, will be repaid to the Firearms Safety and Enforcement Fund. This is depicted in the table as a revenue offset for that fiscal year.

The first and second rows, combined, make up the total projected DROS Fund Revenue for fiscal years 2019-20 through 2022-23.

Departmental expenditures include its appropriation for salaries and benefits, operating expenses and equipment; a supplemental pension loan repayment of \$666,000; a Pro Rata cost of \$819,000 (which increases to \$1,226,000 in 2020-21), and the anticipated cost to refresh and rebuild legacy firearms IT systems.

The third row shows DROS Fund appropriations, which are expended by the Department for salaries and benefits, operating expenses and equipment. Historically, due to insufficient fee revenues, appropriations from the DROS Fund have exceeded DROS Fund revenues, resulting in an operational deficit. Until now, the shortfall has been offset by spending down the fund balance, shifting Departmental resources from other Departmental priorities, and holding

critical positions vacant. The Department's appropriations estimate for FY 2020-21 through 2022-23 are lower than for 2019-20 due to the removal of limited-term funding that will expire in FY 2020-21. The estimate does not reflect any other changes to appropriations, as such changes are made through the legislative and budgetary processes.

The pension loan repayment is a result of the 2017-18 budget package (Chapter 50 [SB 84, Committee on Budget and Fiscal Review]) that was approved as part of the Governor's May Revision proposal. The state borrowed \$6 billion from the Pooled Money Investment Account to make a one-time supplemental payment to the California Public Employees' Retirement System. All funds that make pension payments, including the General Fund and most other state funds, must repay the loan over the next decade. While the General Fund started repaying the loan in 2017-18, other funds (i.e., the DROS Fund) began payments in 2018-19.

The Pro Rata cost is the cost of central service agencies, such as the Department of Finance, the State Treasurer, the State Controller, and the Legislature for providing budgeting, banking, accounting, auditing, payroll, and other services to all state departments. The Pro Rata process apportions the costs of providing central administrative services to all state departments and funding sources that benefit from the services. Amounts apportioned to special funds (i.e. the DROS Fund) for their fair share of central administrative services costs are transferred from the special funds to the General Fund and the Central Service Cost Recovery Fund.

The Department is currently in the beginning stages of refreshing and rebuilding its firearms information technology (IT) systems. Since 1980, the Department has built and maintained numerous firearms IT systems in order to comply with various legislative mandates. Over the past 40 years the systems have become out of date and have effectively reached the end of their life. It is no longer efficient to make modifications to the current systems each year in response to new legislative requirements. In response, the Department has been working towards a system refresh and rebuild, which will modernize its firearms IT systems into one cohesive unit that is adaptable to future needs. This modernization is projected to cost over \$40,000,000, and will last at least five years. At that time, the Department will have a better estimate of its future expenditures, and at that time can readjust the fee as necessary.

### **DROS Fund Deficit**

If the DROS Fee increases from \$19 to \$31.19 on January 1, 2020, the Department estimates that in fiscal year 2019-20 the DROS Fee revenue will still result in a DROS Fund deficit of \$1,862,000. For Fiscal Years 2020/21 through 2025/26, with the addition of the Firearms IT System Modernization costs, the Department estimates that this deficit will grow to over \$3,500,000 each year. (All estimates past FY 2021/22 reflect the same conditions as FY 2021/22.)

If, instead, the DROS Fee decreases to \$0 on January 1, 2020, the Department estimates that in FY 2019-20 the DROS Fund will have a deficit of almost \$20,000,000. This deficit increases to over \$25,000,000 for each fiscal year thereafter (see **Table 3**, below).



**TABLE 1: REVENUE (Actual and Projected)**

	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>FY 19-20 (Projected)</b>	<b>FY 20-21 (Projected)</b>	<b>FY 21-22 (Projected)</b>
<b>Total DROS Transactions</b>	857,536	789,540	809,279	809,279	809,279
<b>Billable DROS Transactions</b>	752,302	683,380	704,073	704,073	704,073
<b>Revenue from \$19/\$31.19 DROS Fee</b>	\$14,293,738	\$12,984,220	\$17,668,712	\$21,960,037	\$21,960,037

**TABLE 2: EXPENDITURES (Projected)**

	<b>FY 19-20 (Projected)</b>	<b>FY 20-21 (Projected)</b>	<b>FY 21-22 (Projected)</b>	<b>FY 22-23 (Projected)</b>
<b>(+) DROS Fund Revenue from \$19/\$31.19 DROS Fee</b>	\$17,668,712	\$21,960,037	\$21,960,037	\$21,960,037
<b>(+) DROS Fund Revenue from other sources including transfers &amp; other adjustments</b>	\$6,749,288	\$391,000	\$6,235,000	\$6,235,000
<b>(-) DROS Appropriation</b>	\$24,795,000	\$21,778,000	\$21,778,000	\$21,778,000
<b>(-) Pension Loan Repayment &amp; Pro Rata</b>	\$1,485,000	\$1,892,000	\$1,892,000	\$1,892,000
<b>(-) Firearms IT System Modernization</b>	N/A	\$2,352,000	\$8,275,000	\$8,275,000
<b>Deficit</b>	<b>(\$1,862,000)</b>	<b>(\$3,670,963)</b>	<b>(\$3,749,963)</b>	<b>(\$3,749,963)</b>

**TABLE 3: DEFICIT WITH A \$0 DROS Fee (Projected)**

	<b>FY 19-20 (Projected)</b>	<b>FY 20-21 (Projected)</b>	<b>FY 21-22 (Projected)</b>	<b>FY 22-23 (Projected)</b>
<b>Deficit</b>	<b>(\$19,530,712)</b>	<b>(\$25,631,000)</b>	<b>(\$25,710,000)</b>	<b>(\$25,710,000)</b>

# EXHIBIT 9

**ATTACHMENT A**  
**Ammunition Purchases or Transfers**  
**Economic and Fiscal Impact Statement (Regulations and Orders)**  
**STD. 399**

**Economic Impact Statement, Section B. Question 1.**

The initial and annual ongoing costs for an individual will depend on what type of form or report they are using, and how many times they submit it for the specified action.

The Entertainment Firearms Permit fee is set in Penal Code section 29510 at \$104 for an initial application, and \$29 for a renewal application.

The Personal Firearms Eligibility Check form fee is set at \$20 in Penal Code section 30105, subdivision (b).

**Economic Impact Statement, Section B. Question 5.**

Per the Code of Federal Regulations, Title 27 section 478.99 subdivision (c)(5), an alien illegally or unlawfully in the United States is prohibited from owning or possessing firearms or ammunition. Federal regulations explain who is prohibited from what activities. The Department's regulation is necessary to explain the process of how the Department will determine if an individual is prohibited as a result of unlawful presence in the United States. In addition, it clarifies what documentation an individual shall provide to prove they have lawful presence in the United States if they possess a driver license or identification card that states, "FEDERAL LIMITS APPLY."

**Fiscal Impact Statement, Section B. Question 4.**

The regulations incorporate two new forms that require the payment of fees to offset Department costs to process the forms.

The Entertainment Firearms Permit fee is set in Penal Code section 29510 at \$104 for an initial application, and \$29 for a renewal application. The Penal Code also notes that of the initial application fee of \$104, \$56 shall be deposited into the Fingerprint Fee Account, and only \$48 shall be deposited into the Dealers' Record of Sale (DROS) account.

The processing costs for the initial application was determined by analyzing the average time it takes to review an application. It takes a Staff Services Analyst roughly 80 minutes to process an initial application, which includes reviewing the application for accuracy and completeness as well as potentially contacting the applicant if any of the required fields are missing any information. At an average hourly rate of \$39, it costs the Department about \$50.67 to process the application.

The processing costs for the renewal application was determined by analyzing the average time it takes to review an application. It takes a Staff Services Analyst slightly less time to process a renewal application (about 70 minutes) due to renewal applicants being more familiar with the process and potentially having less information missing from the form. At an average hourly rate of \$39, it costs the Department about \$43.67 to process the application. As is indicated by the chart below, the revenue generated by the fee and designated to the Bureau of Firearms does not exceed the approximate costs to process the forms.

Document received by the CA 3rd District Court of Appeal.

**Entertainment Firearms Permit (BOF 051)**

Form	Average Number Received Per Year	BOF Portion of Fee	Total Revenue Received	Processing Cost Per Form	Total Cost to Process
Initial Application	94	\$48	\$ 4,512	\$50.67	\$4,763
Renewal Application	404	\$29	\$11,716	\$43.52	\$17,582
		<b>Total:</b>	<b>\$16,228</b>		<b>\$22,345</b>

The Personal Firearms Eligibility Check (PFEC) form fee is set at \$20 in Penal Code section 30105, subdivision (b). The Department receives about 3,000 forms per year total. Eighty-five percent of the forms are routine to process and take roughly 15 minutes to complete. The Criminal Identification Specialist III assigned to conduct the PFEC and determine if the applicant is not prohibited from purchasing a firearm has an average hourly rate of \$41.75. At this rate, the total costs for processing a regular form is \$10.50.

The remaining fifteen percent of applications are more difficult to process. The Department determined this fifteen percent rate by examining the historical data on the number of forms received over the last three years. Along with this data, the Department utilized staff knowledge and expertise and determined that roughly fifteen percent of forms require additional work hours to determine firearm ownership eligibility. This includes spending several hours trying to obtain outside information from courts, law enforcement agencies, and/or district attorney’s offices to determine the disposition of an arrest. The amount of time to process the more difficult forms can vary depending on the circumstances. This can take anywhere from five hours to more than 40 hours in some cases. As a whole, the revenue generated by the fee does not exceed the approximate costs to process the forms. The remaining costs to process the PFEC form are paid for through the Dealer Record of Sale fee under Penal Code section 28225, subdivision (a)(11). (Penal Code section 28233 effective January 1, 2020.)

**Personal Firearms Eligibility Check (PFEC) (BOF 116)**

Form	Average Number Received Per Year	Current Fee	Total Revenue Received	Processing Cost Per Form	Total Cost to Process
PFEC regular (85%)	2,550	\$20	\$ 51,000	\$10.50	\$ 26,775
PFEC difficult (15%)	450	\$20	\$ 9,000	\$209 - \$1,670	\$94,050 - \$751,500
		<b>Total :</b>	<b>\$ 60,000</b>		<b>\$120,825 - \$775,275</b>

**PROOF OF ELECTRONIC SERVICE**

Case Name: *Gentry, et al. v. Becerra, et al.*  
Court of Appeal Case No.: C089655  
Superior Court Case No.: 34-2013-80001667

I, Sean A. Brady, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

On February 7, 2020, I served a copy of the foregoing document(s) described as: **DECLARATION OF SEAN A. BRADY IN SUPPORT OF APPELLANTS’ MOTION FOR JUDICIAL NOTICE**, by electronic transmission as follows:

Robert E. Asperger  
[bob.asperger@doj.ca.gov](mailto:bob.asperger@doj.ca.gov)  
1300 I Street  
Sacramento, CA 95814  
Attorneys for Defendants and Respondents Xavier Becerra, et al.

Superior Court of California  
County of Sacramento  
Appeals Unit  
720 Ninth Street, Room 102  
Sacramento, CA 95814-1380

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on February 7, 2020, at Long Beach, California.

*s/ Sean A. Brady* \_\_\_\_\_  
Sean A. Brady  
Declarant

Document received by the CA 3rd District Court of Appeal.