

**ASSEMBLY BILL**

**No. 538**

---

---

**Introduced by Assembly Member Pan**

February 20, 2013

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as introduced, Pan. Firearms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 11106 of the Penal Code, as added by  
 2 Section 2.5 of Chapter 745 of the Statutes of 2011, is amended to  
 3 read:  
 4 11106. (a) In order to assist in the investigation of crime, the  
 5 prosecution of civil actions by city attorneys pursuant to paragraph  
 6 (3) of subdivision (c), the arrest and prosecution of criminals, and  
 7 the recovery of lost, stolen, or found property, the Attorney General  
 8 shall keep and properly file a complete record of all copies of  
 9 fingerprints, copies of licenses to carry firearms issued pursuant  
 10 to Section 26150, 26155, 26170, or 26215, information reported  
 11 to the Department of Justice pursuant to Section 26225, dealers'  
 12 records of sales of firearms, reports provided pursuant to Article  
 13 1 (commencing with Section 27500) of Chapter 4 of Division 6  
 14 of Title 4 of Part 6, or pursuant to any provision listed in  
 15 subdivision (a) of Section 16585, forms provided pursuant to  
 16 Section 12084, as that section read prior to being repealed, reports

1 provided pursuant to Article 1 (commencing with Section 26700)  
2 and Article 2 (commencing with Section 26800) of Chapter 2 of  
3 Division 6 of Title 4 of Part 6, that are not dealers' records of sales  
4 of firearms, and reports of stolen, lost, found, pledged, or pawned  
5 property in any city or county of this state, and shall, upon proper  
6 application therefor, furnish this information to the officers referred  
7 to in Section 11105.

8 (b) (1) The Attorney General shall permanently keep and  
9 properly file and maintain all information reported to the  
10 Department of Justice pursuant to the following provisions as to  
11 firearms and maintain a registry thereof:

12 (A) Article 1 (commencing with Section 26700) and Article 2  
13 (commencing with Section 26800) of Chapter 2 of Division 6 of  
14 Title 4 of Part 6.

15 (B) Article 1 (commencing with Section 27500) of Chapter 4  
16 of Division 6 of Title 4 of Part 6.

17 (C) Chapter 5 (commencing with Section 28050) of Division 6  
18 of Title 4 of Part 6.

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

20 (E) Former Section 12084.

21 (F) Any other law.

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

23 (A) The name, address, identification of, place of birth (state  
24 or country), complete telephone number, occupation, sex,  
25 description, and all legal names and aliases ever used by the owner  
26 or person being loaned the particular firearm as listed on the  
27 information provided to the department on the Dealers' Record of  
28 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined  
29 in former Section 12084, or reports made to the department  
30 pursuant to any provision listed in subdivision (a) of Section 16585  
31 or any other law.

32 (B) The name and address of, and other information about, any  
33 person (whether a dealer or a private party) from whom the owner  
34 acquired or the person being loaned the particular firearm and  
35 when the firearm was acquired or loaned as listed on the  
36 information provided to the department on the Dealers' Record of  
37 Sale, the LEFT, or reports made to the department pursuant to any  
38 provision listed in subdivision (a) of Section 16585 or any other  
39 law.

1 (C) Any waiting period exemption applicable to the transaction  
 2 which resulted in the owner of or the person being loaned the  
 3 particular firearm acquiring or being loaned that firearm.

4 (D) The manufacturer's name if stamped on the firearm, model  
 5 name or number if stamped on the firearm, and, if applicable, the  
 6 serial number, other number (if more than one serial number is  
 7 stamped on the firearm), caliber, type of firearm, if the firearm is  
 8 new or used, barrel length, and color of the firearm, or, if the  
 9 firearm is not a handgun and does not have a serial number or any  
 10 identification number or mark assigned to it, that shall be noted.

11 (3) Information in the registry referred to in this subdivision  
 12 shall, upon proper application therefor, be furnished to the officers  
 13 referred to in Section 11105, to a city attorney prosecuting a civil  
 14 action, solely for use in prosecuting that civil action and not for  
 15 any other purpose, or to the person listed in the registry as the  
 16 owner or person who is listed as being loaned the particular firearm.

17 (4) If any person is listed in the registry as the owner of a firearm  
 18 through a Dealers' Record of Sale prior to 1979, and the person  
 19 listed in the registry requests by letter that the Attorney General  
 20 store and keep the record electronically, as well as in the record's  
 21 existing photographic, photostatic, or nonerasable optically stored  
 22 form, the Attorney General shall do so within three working days  
 23 of receipt of the request. The Attorney General shall, in writing,  
 24 and as soon as practicable, notify the person requesting electronic  
 25 storage of the record that the request has been honored as required  
 26 by this paragraph.

27 (c) (1) Any officer referred to in paragraphs (1) to (6), inclusive,  
 28 of subdivision (b) of Section 11105 may disseminate the name of  
 29 the subject of the record, the number of the firearms listed in the  
 30 record, and the description of any firearm, including the make,  
 31 model, and caliber, from the record relating to any firearm's sale,  
 32 transfer, registration, or license record, or any information reported  
 33 to the Department of Justice pursuant to Section 26225, Article 1  
 34 (commencing with Section 26700) and Article 2 (commencing  
 35 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part  
 36 6, Article 1 (commencing with Section 27500) of Chapter 4 of  
 37 Division 6 of Title 4 of Part 6, Chapter 5 (commencing with  
 38 Section 28050) of Division 6 of Title 4 of Part 6, Article 2  
 39 (commencing with Section 28150) of Chapter 6 of Division 6 of  
 40 Title 4 of Part 6, Article 5 (commencing with Section 30900) of

1 Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2  
2 (commencing with Section 33850) of Division 11 of Title 4 of Part  
3 6, or any provision listed in subdivision (a) of Section 16585, if  
4 the following conditions are met:

5 (A) The subject of the record has been arraigned for a crime in  
6 which the victim is a person described in subdivisions (a) to (f),  
7 inclusive, of Section 6211 of the Family Code and is being  
8 prosecuted or is serving a sentence for the crime, or the subject of  
9 the record is the subject of an emergency protective order, a  
10 temporary restraining order, or an order after hearing, which is in  
11 effect and has been issued by a family court under the Domestic  
12 Violence Protection Act set forth in Division 10 (commencing  
13 with Section 6200) of the Family Code.

14 (B) The information is disseminated only to the victim of the  
15 crime or to the person who has obtained the emergency protective  
16 order, the temporary restraining order, or the order after hearing  
17 issued by the family court.

18 (C) Whenever a law enforcement officer disseminates the  
19 information authorized by this subdivision, that officer or another  
20 officer assigned to the case shall immediately provide the victim  
21 of the crime with a “Victims of Domestic Violence” card, as  
22 specified in subparagraph (H) of paragraph (9) of subdivision (c)  
23 of Section 13701.

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

28 ~~(d) This section shall become operative January 1, 2014.~~

29 *(d) The department shall update within five business days any*  
30 *change in information the department maintains pursuant to this*  
31 *section regarding firearms ownership in order to maintain the*  
32 *accuracy of that information.*

33 SEC. 2. Section 26384 of the Penal Code is amended to read:  
34 26384. Paragraph (1) of subdivision (a) of Section 26350 does  
35 not apply to, or affect, the open carrying of an unloaded handgun  
36 if all of the following conditions are satisfied:

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

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

3 (c) The unloaded handgun is to be delivered by a person licensed  
4 pursuant to, and operating in accordance with, Sections 26700 to  
5 ~~26925~~ 26915, inclusive.

6 SEC. 3. Section 26405 of the Penal Code is amended to read:

7 26405. Section 26400 does not apply to, or affect, the carrying  
8 of an unloaded firearm that is not a handgun in any of the following  
9 circumstances:

10 (a) By a person when ~~done~~ *carried* within a place of business,  
11 a place of residence, or on private *real* property, if that person, by  
12 virtue of subdivision (a) of Section 25605, may carry a firearm  
13 within that place of business, place of residence, or on that private  
14 *real* property owned or lawfully ~~possessed~~ *occupied* by that person.

15 (b) By a person when ~~done~~ *carried* within a place of business,  
16 a place of residence, or on private *real* property, if done with the  
17 permission of a person who, by virtue of subdivision (a) of Section  
18 25605, may carry a firearm within that place of business, place of  
19 residence, or on that private *real* property owned or lawfully  
20 ~~possessed~~ *occupied* by that person.

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

26 (d) If the person possessing the firearm reasonably believes that  
27 he or she is in grave danger because of circumstances forming the  
28 basis of a current restraining order issued by a court against another  
29 person or persons who has or have been found to pose a threat to  
30 his or her life or safety. This ~~paragraph~~ *subdivision* may not apply  
31 when the circumstances involve a mutual restraining order issued  
32 pursuant to Division 10 (commencing with Section 6200) of the  
33 Family Code absent a factual finding of a specific threat to the  
34 person's life or safety. Upon a trial for violating ~~subdivision (a)~~  
35 *Section 26400*, the trier of fact shall determine whether the  
36 defendant was acting out of a reasonable belief that he or she was  
37 in grave danger.

38 (e) By a peace officer or an honorably retired peace officer if  
39 that officer may carry a concealed firearm pursuant to Article 2  
40 (commencing with Section 25450) of Chapter 2, or a loaded firearm

1 pursuant to Article 3 (commencing with Section 25900) of Chapter  
2 3.

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

6 (g) As merchandise by a person who is engaged in the business  
7 of manufacturing, importing, wholesaling, repairing, or dealing in  
8 firearms and who is licensed to engage in that business, or the  
9 authorized representative or authorized agent of that person, while  
10 engaged in the lawful course of the business.

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

14 (i) By a member of a club or organization organized for the  
15 purpose of practicing shooting at targets upon established target  
16 ranges, whether public or private, while the members are using  
17 ~~handguns~~ *firearms that are not handguns* upon the target ranges  
18 or incident to the use of a firearm that is not a handgun at that  
19 target range.

20 (j) By a licensed hunter while engaged in hunting or while  
21 transporting that firearm when going to or returning from that  
22 hunting expedition.

23 (k) Incident to transportation of a handgun by a person operating  
24 a licensed common carrier, or by an authorized agent or employee  
25 thereof, when transported in conformance with applicable federal  
26 law.

27 (l) By a member of an organization chartered by the Congress  
28 of the United States or a nonprofit mutual or public benefit  
29 corporation organized and recognized as a nonprofit tax-exempt  
30 organization by the Internal Revenue Service while on official  
31 parade duty or ceremonial occasions of that organization or while  
32 rehearsing or practicing for official parade duty or ceremonial  
33 occasions.

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

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

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

- 1 (p) By a person while engaged in the act of making or attempting  
2 to make a lawful arrest.
- 3 (q) By a person engaged in firearms-related activities, while on  
4 the premises of a fixed place of business that is licensed to conduct  
5 and conducts, as a regular course of its business, activities related  
6 to the sale, making, repair, transfer, pawn, or the use of firearms,  
7 or related to firearms training.
- 8 (r) By an authorized participant in, or an authorized employee  
9 or agent of a supplier of firearms for, a motion picture, television,  
10 or video production, or entertainment event, when the participant  
11 lawfully uses that firearm as part of that production or event, as  
12 part of rehearsing or practicing for participation in that production  
13 or event, or while the participant or authorized employee or agent  
14 is at that production or event, or rehearsal or practice for that  
15 production or event.
- 16 (s) Incident to obtaining an identification number or mark  
17 assigned for that firearm from the Department of Justice pursuant  
18 to Section 23910.
- 19 (t) At an established public target range while the person is  
20 using that firearm upon that target range.
- 21 (u) By a person when that person is summoned by a peace  
22 officer to assist in making arrests or preserving the peace, while  
23 the person is actually engaged in assisting that officer.
- 24 (v) Incident to any of the following:
- 25 (1) Complying with Section 27560 or 27565, as it pertains to  
26 that firearm.
- 27 (2) Section 28000, as it pertains to that firearm.
- 28 (3) Section 27850 or 31725, as it pertains to that firearm.
- 29 (4) Complying with Section 27870 or 27875, as it pertains to  
30 that firearm.
- 31 (5) Complying with Section 27915, 27920, or 27925, as it  
32 pertains to that firearm.
- 33 (w) Incident to, and in the course and scope of, training of, or  
34 by an individual to become a sworn peace officer as part of a course  
35 of study approved by the Commission on Peace Officer Standards  
36 and Training.
- 37 (x) Incident to, and in the course and scope of, training of, or  
38 by an individual to become licensed pursuant to Chapter 4  
39 (commencing with Section 26150) as part of a course of study

1 necessary or authorized by the person authorized to issue the  
2 license pursuant to that chapter.

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

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

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

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

13 (3) The unloaded firearm that is not a handgun is to be delivered  
14 by a person licensed pursuant to, and operating in accordance with,  
15 Sections 26700 to ~~26925~~ 26915, inclusive.

16 (aa) Pursuant to paragraph (3) of subdivision (b) of Section  
17 171c.

18 (ab) Pursuant to Section 171d.

19 (ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision  
20 (c) of Section 171.7.

21 (ad) On publicly owned land, if the possession and use of  
22 unloaded firearm that is not a handgun is specifically permitted  
23 by the managing agency of the land and the person carrying that  
24 firearm is in lawful possession of that firearm.

25 (ae) By any of the following:

26 (1) The carrying of an unloaded firearm that is not a handgun  
27 that is regulated pursuant to Chapter 1 (commencing with Section  
28 18710) of Division 5 of Title 2 by a person who holds a permit  
29 issued pursuant to Article 3 (commencing with Section 18900) of  
30 that chapter, if the carrying of that firearm is conducted in  
31 accordance with the terms and conditions of the permit.

32 (2) The carrying of an unloaded firearm that is not a handgun  
33 that is regulated pursuant to Chapter 2 (commencing with Section  
34 30500) of Division 10 by a person who holds a permit issued  
35 pursuant to Section 31005, if the carrying of that firearm is  
36 conducted in accordance with the terms and conditions of the  
37 permit.

38 (3) The carrying of an unloaded firearm that is not a handgun  
39 that is regulated pursuant to Chapter 6 (commencing with Section  
40 32610) of Division 10 by a person who holds a permit issued

1 pursuant to Section 32650, if the carrying of that firearm is  
2 conducted in accordance with the terms and conditions of the  
3 permit.

4 (4) The carrying of an unloaded firearm that is not a handgun  
5 that is regulated pursuant to Article 2 (commencing with Section  
6 33300) of Chapter 8 of Division 10 by a person who holds a permit  
7 issued pursuant to Section 33300, if the carrying of that firearm is  
8 conducted in accordance with the terms and conditions of the  
9 permit.

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

14 (ag) Pursuant to the provisions of subdivision (d) of Section  
15 171.5.

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

23 (ai) On the navigable waters of this state that are held in public  
24 trust, if the possession and use of an unloaded firearm that is not  
25 a handgun is not prohibited by the managing agency thereof and  
26 the person carrying the firearm is in lawful possession of the  
27 firearm.

28 SEC. 4. Section 26620 is added to the Penal Code, to read:

29 26620. Section 26500 does not apply to the sale, delivery, or  
30 transfer of a firearm when made by an authorized law enforcement  
31 representative of a city, county, city and county, or of the state or  
32 federal government, if both of the following requirements are met:

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

34 (1) A person licensed pursuant to Sections 26700 to 26915,  
35 inclusive.

36 (2) A wholesaler.

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

1 (b) The sale, delivery, or transfer of the firearm is not subject  
2 to the procedures set forth in Section 18000, 18005, 34000, or  
3 34005.

4 SEC. 5. Section 27600 of the Penal Code is amended to read:

5 27600. (a) Article 1 (commencing with Section 27500) does  
6 not apply to any sale, delivery, or transfer of firearms made to an  
7 authorized law enforcement representative of any city, county,  
8 city and county, or state, or of the federal government, for exclusive  
9 use by that governmental agency if, prior to the sale, delivery, or  
10 transfer of these firearms, written authorization from the head of  
11 the agency authorizing the transaction is presented to the person  
12 from whom the purchase, delivery, or transfer is being made.

13 (b) Proper written authorization is defined as verifiable written  
14 certification from the head of the agency by which the purchaser  
15 or transferee is employed, identifying the employee as an individual  
16 authorized to conduct the transaction, and authorizing the  
17 transaction for the exclusive use of the agency by which that person  
18 is employed.

19 (c) Within 10 days of the date a ~~handgun, and commencing~~  
20 ~~January 1, 2014,~~ any firearm; is acquired by the agency, a record  
21 of the same shall be entered as an institutional weapon into the  
22 Automated Firearms System (AFS) via the California Law  
23 Enforcement Telecommunications System (CLETS) by the law  
24 enforcement or state agency. Any agency without access to AFS  
25 shall arrange with the sheriff of the county in which the agency is  
26 located to input this information via this system.

27 (d) *Any agency that is the registered owner of an institutional*  
28 *weapon in accordance with subdivision (c) that subsequently*  
29 *destroys that weapon shall enter information that the weapon has*  
30 *been destroyed into the Automated Firearms System (AFS) via the*  
31 *California Law Enforcement Telecommunications System (CLETS)*  
32 *within 10 days of the destruction in accordance with procedures*  
33 *prescribed by the Department of Justice. Any agency without access*  
34 *to the AFS shall arrange with the sheriff of the county in which*  
35 *the agency is located to input this information via this system.*

36 SEC. 6. Section 27620 is added to the Penal Code, to read:

37 27620. Section 27545 does not apply to the sale, delivery, or  
38 transfer of a firearm when made by an authorized law enforcement  
39 representative of a city, county, city and county, or of the state or  
40 federal government, if all of the following conditions are met:

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

2 (1) A person licensed pursuant to Sections 26700 to 26915,  
3 inclusive.

4 (2) A wholesaler.

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

9 (b) The sale, delivery, or transfer of the firearm is not subject  
10 to the procedures set forth in Section 18000, 18005, 34000, or  
11 34005.

12 (c) (1) Except as provided in paragraph (2), if the sale, delivery,  
13 or transfer is of a handgun, on the date that the handgun is delivered  
14 pursuant to this subdivision, by the agency, a record of the delivery  
15 has been entered into the Automated Firearms System (AFS) via  
16 the California Law Enforcement Telecommunications System  
17 (CLETS) by the law enforcement or state agency. Those agencies  
18 without access to AFS shall arrange with the sheriff of the county  
19 in which the agency is located to input this information via this  
20 system.

21 (2) If the firearm was initially registered with the Department  
22 of Justice by the agency as an institutional weapon or otherwise,  
23 on the date that the weapon is delivered pursuant to this section  
24 by the agency, a record of the delivery has been entered into the  
25 AFS via the CLETS by the law enforcement or state agency. Those  
26 agencies without access to AFS shall arrange with the sheriff of  
27 the county in which the agency is located to input this information  
28 via this system.

29 SEC. 7. Section 28000 of the Penal Code is amended to read:

30 28000. A person who is exempt from Section 27545 or is  
31 otherwise not required by law to report acquisition, ownership,  
32 *destruction*, or disposal of a handgun, and commencing January  
33 1, 2014, a firearm that is not a handgun, or who moves out of this  
34 state with the person's handgun, and commencing January 1, 2014,  
35 a firearm that is not a handgun, may report that *information* to the  
36 Department of Justice in a format prescribed by the department.

37 SEC. 8. Section 28160 of the Penal Code is amended to read:

38 28160. (a) ~~Until January 1, 2014, for handguns, and thereafter~~  
39 ~~for~~ For all firearms, the register or record of electronic transfer  
40 shall include all of the following information:

- 1 (1) The date and time of sale.
- 2 (2) The make of firearm.
- 3 (3) Peace officer exemption status pursuant to the provisions
- 4 listed in subdivision (c) of Section 16585, and the agency name.
- 5 ~~(4) Auction or event waiting period exemption pursuant to~~
- 6 ~~Sections 26955 and 27655.~~
- 7 ~~(5) Dealer waiting period exemption pursuant to Sections 26960~~
- 8 ~~and 27660.~~
- 9 ~~(6) Dangerous weapons permit holder waiting period exemption~~
- 10 ~~pursuant to Sections 26965 and 27665.~~
- 11 ~~(7) Curio and relic waiting period exemption pursuant to~~
- 12 ~~Sections 26970 and 27670.~~
- 13 (4) *Any applicable waiting period exemption information.*
- 14 ~~(8)~~
- 15 (5) California Firearms Dealer number issued pursuant to Article
- 16 1 (commencing with Section 26700) of Chapter 2.
- 17 ~~(9)~~
- 18 (6) For transactions occurring on or after January 1, 2003, the
- 19 purchaser's handgun safety certificate number issued pursuant to
- 20 Article 2 (commencing with Section 31610) of Chapter 4 of
- 21 Division 10 of this title, or pursuant to former Article 8
- 22 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
- 23 4, as that article read at any time from when it became operative
- 24 on January 1, 2003, to when it was repealed by the Deadly
- 25 Weapons Recodification Act of 2010.
- 26 ~~(10)~~
- 27 (7) Manufacturer's name if stamped on the firearm.
- 28 ~~(11)~~
- 29 (8) Model name or number, if stamped on the firearm.
- 30 ~~(12)~~
- 31 (9) Serial number, if applicable.
- 32 ~~(13)~~
- 33 (10) Other number, if more than one serial number is stamped
- 34 on the firearm.
- 35 ~~(14)~~
- 36 (11) Any identification number or mark assigned to the firearm
- 37 pursuant to Section 23910.
- 38 ~~(15)~~

- 1 (12) If the firearm is not a handgun and does not have a serial  
2 number, identification number, or mark assigned to it, a notation  
3 as to that fact.  
4 ~~(16)~~  
5 (13) Caliber.  
6 ~~(17)~~  
7 (14) Type of firearm.  
8 ~~(18)~~  
9 (15) If the firearm is new or used.  
10 ~~(19)~~  
11 (16) Barrel length.  
12 ~~(20)~~  
13 (17) Color of the firearm.  
14 ~~(21)~~  
15 (18) Full name of purchaser.  
16 ~~(22)~~  
17 (19) Purchaser's complete date of birth.  
18 ~~(23)~~  
19 (20) Purchaser's local address.  
20 ~~(24)~~  
21 (21) If current address is temporary, complete permanent address  
22 of purchaser.  
23 ~~(25)~~  
24 (22) Identification of purchaser.  
25 ~~(26)~~  
26 (23) Purchaser's place of birth (state or country).  
27 ~~(27)~~  
28 (24) Purchaser's complete telephone number.  
29 ~~(28)~~  
30 (25) Purchaser's occupation.  
31 ~~(29)~~  
32 (26) Purchaser's ~~sex~~ *gender*.  
33 ~~(30)~~  
34 (27) Purchaser's physical description.  
35 ~~(31)~~  
36 (28) All legal names and aliases ever used by the purchaser.  
37 ~~(32)~~  
38 (29) Yes or no answer to questions that prohibit purchase,  
39 including, but not limited to, conviction of a felony as described  
40 in Chapter 2 (commencing with Section 29800) or an offense

1 described in Chapter 3 (commencing with Section 29900) of  
2 Division 9 of this title, the purchaser's status as a person described  
3 in Section 8100 of the Welfare and Institutions Code, whether the  
4 purchaser is a person who has been adjudicated by a court to be a  
5 danger to others or found not guilty by reason of insanity, and  
6 whether the purchaser is a person who has been found incompetent  
7 to stand trial or placed under conservatorship by a court pursuant  
8 to Section 8103 of the Welfare and Institutions Code.

9 ~~(33)~~

10 (30) Signature of purchaser.

11 ~~(34)~~

12 (31) Signature of salesperson, as a witness to the purchaser's  
13 signature.

14 ~~(35)~~

15 (32) Salesperson's certificate of eligibility number, if the  
16 salesperson has obtained a certificate of eligibility.

17 ~~(36)~~

18 (33) Name and complete address of the dealer or firm selling  
19 the firearm as shown on the dealer's license.

20 ~~(37)~~

21 (34) The establishment number, if assigned.

22 ~~(38)~~

23 (35) The dealer's complete business telephone number.

24 ~~(39)~~

25 (36) Any information required by Chapter 5 (commencing with  
26 Section 28050).

27 ~~(40)~~

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

30 ~~(41)~~

31 (38) A statement of the penalties for signing a fictitious name  
32 or address, knowingly furnishing any incorrect information, or  
33 knowingly omitting any information required to be provided for  
34 the register.

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

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

1 (B) *The purchaser is entitled to file a report of his or her*  
2 *acquisition, disposition, or ownership of a firearm with the*  
3 *department pursuant to Section 28000.*

4 (C) *Instructions for accessing the department's Internet Web*  
5 *site for more information.*

6 (b) The purchaser shall provide the purchaser's right thumbprint  
7 on the register in a manner prescribed by the department. No  
8 exception to this requirement shall be permitted except by  
9 regulations adopted by the department.

10 (c) The firearms dealer shall record on the register or record of  
11 electronic transfer the date that the firearm is delivered, *together*  
12 *with the firearm dealer's signature indicating delivery of the*  
13 *firearm.*

14 (d) *The purchaser shall sign the register or the record of*  
15 *electronic or telephonic transfer on the date that the firearm is*  
16 *delivered to him or her.*

17 SEC. 9. Section 28210 of the Penal Code is amended to read:

18 28210. (a) (1) Where the register is used, the purchaser of  
19 any firearm shall be required to present to the dealer clear evidence  
20 of the person's identity and age.

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

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

26 (b) Any person furnishing a fictitious name or address,  
27 knowingly furnishing any incorrect information, or knowingly  
28 omitting any information required to be provided for the register  
29 shall be punished as provided in Section 28250.

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

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

35 (3) Upon presentation of proper identification, the permanent  
36 register of transactions shall be available for inspection by any  
37 peace officer, Department of Justice employee designated by the  
38 Attorney General, or agent of the federal Bureau of Alcohol,  
39 Tobacco, Firearms and Explosives. Until January 1, 2014, no

1 information shall be compiled therefrom regarding the purchasers  
2 or other transferees of firearms that are not handguns.

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

6 (e) ~~If requested, a~~ (1) A photocopy of the ~~original~~ register shall  
7 be provided to the purchaser by the dealer *at the time of delivery*  
8 *of the firearm and after the dealer notes the date of delivery and*  
9 *the purchaser acknowledges the receipt of the firearm.*

10 (2) *The requirements of this subdivision apply if a dealer is*  
11 *delivering a firearm pursuant to Section 27540 or Chapter 5*  
12 *(commencing with Section 28050).*

13 (f) If the transaction is a private party transfer conducted  
14 pursuant to Chapter 5 (commencing with Section 28050), a  
15 photocopy of the original shall be provided to the seller ~~or~~  
16 ~~purchaser~~ by the dealer, ~~upon request~~ *at the time the register is*  
17 *signed by the seller.* The dealer shall redact all of the purchaser's  
18 personal information, as required pursuant to subdivision (a) of  
19 Section 28160 and subdivision (a) of Section 28165, from the  
20 seller's copy, and the seller's personal information from the  
21 purchaser's copy.

22 SEC. 10. Section 28215 of the Penal Code is amended to read:

23 28215. (a) (1) Where the electronic or telephonic transfer of  
24 applicant information is used, the purchaser shall be required to  
25 present to the dealer clear evidence of the person's identity and  
26 age.

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

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

32 (b) Any person furnishing a fictitious name or address,  
33 knowingly furnishing any incorrect information, or knowingly  
34 omitting any information required to be provided for the electronic  
35 or telephonic transfer shall be punished as provided in Section  
36 28250.

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

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

4 (3) Upon presentation of proper identification, the permanent  
 5 record of the transaction shall be provided for inspection by any  
 6 peace officer, Department of Justice employee designated by the  
 7 Attorney General, or agent of the federal Bureau of Alcohol,  
 8 Tobacco, Firearms and Explosives. ~~Until January 1, 2014, no~~  
 9 ~~information shall be compiled therefrom regarding the purchasers~~  
 10 ~~or other transferees of firearms that are not handguns.~~

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

14 (e) ~~If requested, a~~ (1) A copy of the record of electronic or  
 15 telephonic transfer shall be provided to the purchaser by the dealer  
 16 *at the time of delivery of the firearm and after the dealer notes the*  
 17 *date of delivery and the purchaser acknowledges the receipt of the*  
 18 *firearm.*

19 (2) *The requirements of this subdivision apply if a dealer is*  
 20 *delivering a firearm pursuant to Section 27540 or Chapter 5*  
 21 *(commencing with Section 28050).*

22 (f) If the transaction is a private party transfer conducted  
 23 pursuant to Chapter 5 (commencing with Section 28050), a copy  
 24 shall be provided to the seller ~~or purchaser~~ by the dealer, ~~upon~~  
 25 ~~request at the time the record of electronic or telephonic transfer~~  
 26 ~~is signed by the seller.~~ The dealer shall redact all of the purchaser's  
 27 personal information, as required pursuant to subdivision (a) of  
 28 Section 28160 and subdivision (a) of Section 28165, from the  
 29 seller's copy, and the seller's personal information from the  
 30 purchaser's copy.

31 SEC. 11. Section 31835 is added to the Penal Code, to read:

32 31835. Subdivision (a) of Section 31615 does not apply to the  
 33 delivery, sale, or transfer of firearms when made by authorized  
 34 law enforcement representatives for cities, counties, cities and  
 35 counties, or of the state or federal government, if all of the  
 36 following conditions are met:

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

1 (b) The sale, delivery, or transfer of the firearm is not subject  
2 to the procedures set forth in Section 18000, 18005, 34000, or  
3 34005.

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

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

7 34005. (a) (1) An officer having custody of any firearm that  
8 may be useful to the California National Guard, the Coast Guard  
9 Auxiliary, or to any military or naval agency of the federal or state  
10 government, including, but not limited to, the ~~California National~~  
11 ~~Guard military museum and resource center~~ *State Military Museum*  
12 *and Resource Center*, may, upon the authority of the legislative  
13 body of the city, city and county, or county by which the officer  
14 is employed and the approval of the Adjutant General, deliver the  
15 firearm to the commanding officer of a unit of the California  
16 National Guard, the Coast Guard Auxiliary, or any other military  
17 agency of the state or federal government, in lieu of destruction  
18 as required by any of the provisions listed in Section 16580.

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

23 (b) Any law enforcement agency that has custody of any  
24 firearms, or any parts of any firearms, which are subject to  
25 destruction as required by any of the provisions listed in Section  
26 16580, may, in lieu of destroying the weapons, retain and use any  
27 of them as may be useful in carrying out the official duties of the  
28 agency. Alternatively, upon approval of a court, the agency may  
29 do either of the following:

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

32 (2) Turn over to the criminalistics laboratory of the Department  
33 of Justice or the criminalistics laboratory of a police department,  
34 sheriff's office, or district attorney's office, any weapons that may  
35 be useful in carrying out the official duties of the respective  
36 agencies.

37 (c) (1) Any firearm, or part of any firearm, which, rather than  
38 being destroyed, is used for official purposes pursuant to this  
39 section, shall be destroyed by the agency using the weapon when

1 it is no longer needed by the agency for use in carrying out its  
2 official duties.

3 (2) Firearms or weaponry donated to the ~~California National~~  
4 ~~Guard military museum and resource center~~ *State Military Museum*  
5 *and Resource Center* may be disposed of pursuant to Section 179  
6 of the Military and Veterans Code.

7 (d) (1) Any law enforcement agency that has custody of any  
8 firearms, or any parts of any firearms, which are subject to  
9 destruction as required by any of the provisions listed in Section  
10 16580, may, in lieu of destroying the firearms, obtain an order  
11 from the superior court directing the release of the firearms to the  
12 sheriff.

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

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

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

31 (5) When those firearms are returned, the law enforcement  
32 agency to which the firearms are returned, shall on the date of the  
33 return, enter into the Automated Firearms System (AFS), via the  
34 California Law Enforcement Telecommunications System, a  
35 complete description of each weapon, including the make, type,  
36 category, caliber, and serial number of the firearms, and the name  
37 of the entity returning the firearm.

38 SEC. 13. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

O