

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 17, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 538

Introduced by Assembly Member Pan

February 20, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as amended, Pan. Firearms.

(1) Existing law, 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.

(2) Existing law, subject to specified exceptions, including use by a member of a club or organization organized for the purpose of practicing shooting at targets upon established target ranges while the members are using handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range, makes it a crime for

a person to carry an unloaded firearm that is not a handgun outside a vehicle while in an incorporated city or city and county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 1. Section 26384 of the Penal Code is amended to
2 read:

3 26384. Paragraph (1) of subdivision (a) of Section 26350 does
4 not apply to, or affect, the open carrying of an unloaded handgun
5 if all of the following conditions are satisfied:

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

12 (c) The unloaded handgun is to be delivered by a person licensed
13 pursuant to, and operating in accordance with, Sections 26700 to
14 26915, inclusive.

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

16 26405. Section 26400 does not apply to, or affect, the carrying
17 of an unloaded firearm that is not a handgun in any of the following
18 circumstances:

19 (a) By a person when carried within a place of business, a place
20 of residence, or on private real property, if that person, by virtue
21 of subdivision (a) of Section 25605, may carry a firearm within

1 that place of business, place of residence, or on that private real
2 property owned or lawfully occupied by that person.

3 (b) By a person when carried within a place of business, a place
4 of residence, or on private real property, if done with the
5 permission of a person who, by virtue of subdivision (a) of Section
6 25605, may carry a firearm within that place of business, place of
7 residence, or on that private real property owned or lawfully
8 occupied by that person.

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

14 (d) If the person possessing the firearm reasonably believes that
15 he or she is in grave danger because of circumstances forming the
16 basis of a current restraining order issued by a court against another
17 person or persons who has or have been found to pose a threat to
18 his or her life or safety. This subdivision may not apply when the
19 circumstances involve a mutual restraining order issued pursuant
20 to Division 10 (commencing with Section 6200) of the Family
21 Code absent a factual finding of a specific threat to the person's
22 life or safety. Upon a trial for violating Section 26400, the trier of
23 fact shall determine whether the defendant was acting out of a
24 reasonable belief that he or she was in grave danger.

25 (e) By a peace officer or an honorably retired peace officer if
26 that officer may carry a concealed firearm pursuant to Article 2
27 (commencing with Section 25450) of Chapter 2, or a loaded firearm
28 pursuant to Article 3 (commencing with Section 25900) of Chapter
29 3.

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

33 (g) As merchandise by a person who is engaged in the business
34 of manufacturing, importing, wholesaling, repairing, or dealing in
35 firearms and who is licensed to engage in that business, or the
36 authorized representative or authorized agent of that person, while
37 engaged in the lawful course of the business.

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

- 1 (i) By a member of a club or organization organized for the
2 purpose of practicing shooting at targets upon established target
3 ranges, whether public or private, while the members are using
4 firearms that are not handguns upon the target ranges or incident
5 to the use of a firearm that is not a handgun at that target range.
- 6 (j) By a licensed hunter while engaged in hunting or while
7 transporting that firearm when going to or returning from that
8 hunting expedition.
- 9 (k) Incident to transportation of a handgun by a person operating
10 a licensed common carrier, or by an authorized agent or employee
11 thereof, when transported in conformance with applicable federal
12 law.
- 13 (l) By a member of an organization chartered by the Congress
14 of the United States or a nonprofit mutual or public benefit
15 corporation organized and recognized as a nonprofit tax-exempt
16 organization by the Internal Revenue Service while on official
17 parade duty or ceremonial occasions of that organization or while
18 rehearsing or practicing for official parade duty or ceremonial
19 occasions.
- 20 (m) Within a gun show conducted pursuant to Article 1
21 (commencing with Section 27200) and Article 2 (commencing
22 with Section 27300) of Chapter 3 of Division 6.
- 23 (n) Within a school zone, as defined in Section 626.9, with the
24 written permission of the school district superintendent, the
25 superintendent's designee, or equivalent school authority.
- 26 (o) When in accordance with the provisions of Section 171b.
- 27 (p) By a person while engaged in the act of making or attempting
28 to make a lawful arrest.
- 29 (q) By a person engaged in firearms-related activities, while on
30 the premises of a fixed place of business that is licensed to conduct
31 and conducts, as a regular course of its business, activities related
32 to the sale, making, repair, transfer, pawn, or the use of firearms,
33 or related to firearms training.
- 34 (r) By an authorized participant in, or an authorized employee
35 or agent of a supplier of firearms for, a motion picture, television,
36 or video production or entertainment event, when the participant
37 lawfully uses that firearm as part of that production or event, as
38 part of rehearsing or practicing for participation in that production
39 or event, or while the participant or authorized employee or agent

1 is at that production or event, or rehearsal or practice for that
2 production or event.

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

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

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

11 (v) Incident to any of the following:

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

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

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

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

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

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

24 (x) Incident to, and in the course and scope of, training of, or
25 by an individual to become licensed pursuant to Chapter 4
26 (commencing with Section 26150) as part of a course of study
27 necessary or authorized by the person authorized to issue the
28 license pursuant to that chapter.

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

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

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

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

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

4 (aa) Pursuant to paragraph (3) of subdivision (b) of Section
5 171c.

6 (ab) Pursuant to Section 171d.

7 (ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision
8 (c) of Section 171.7.

9 (ad) On publicly owned land, if the possession and use of an
10 unloaded firearm that is not a handgun is specifically permitted
11 by the managing agency of the land and the person carrying that
12 firearm is in lawful possession of that firearm.

13 (ae) By any of the following:

14 (1) The carrying of an unloaded firearm that is not a handgun
15 that is regulated pursuant to Chapter 1 (commencing with Section
16 18710) of Division 5 of Title 2 by a person who holds a permit
17 issued pursuant to Article 3 (commencing with Section 18900) of
18 that chapter, if the carrying of that firearm is conducted in
19 accordance with the terms and conditions of the permit.

20 (2) The carrying of an unloaded firearm that is not a handgun
21 that is regulated pursuant to Chapter 2 (commencing with Section
22 30500) of Division 10 by a person who holds a permit issued
23 pursuant to Section 31005, if the carrying of that firearm is
24 conducted in accordance with the terms and conditions of the
25 permit.

26 (3) The carrying of an unloaded firearm that is not a handgun
27 that is regulated pursuant to Chapter 6 (commencing with Section
28 32610) of Division 10 by a person who holds a permit issued
29 pursuant to Section 32650, if the carrying of that firearm is
30 conducted in accordance with the terms and conditions of the
31 permit.

32 (4) The carrying of an unloaded firearm that is not a handgun
33 that is regulated pursuant to Article 2 (commencing with Section
34 33300) of Chapter 8 of Division 10 by a person who holds a permit
35 issued pursuant to Section 33300, if the carrying of that firearm is
36 conducted in accordance with the terms and conditions of the
37 permit.

38 (af) By a licensed hunter while actually engaged in training a
39 dog for the purpose of using the dog in hunting that is not

1 prohibited by law, or while transporting the firearm while going
2 to or returning from that training.

3 (ag) Pursuant to the provisions of subdivision (d) of Section
4 171.5.

5 (ah) By a person who is engaged in the business of
6 manufacturing ammunition and who is licensed to engage in that
7 business, or the authorized representative or authorized agent of
8 that person, while the firearm is being used in the lawful course
9 and scope of the licensee's activities as a person licensed pursuant
10 to Chapter 44 (commencing with Section 921) of Title 18 of the
11 United States Code and regulations issued pursuant thereto.

12 (ai) On the navigable waters of this state that are held in public
13 trust, if the possession and use of an unloaded firearm that is not
14 a handgun is not prohibited by the managing agency thereof and
15 the person carrying the firearm is in lawful possession of the
16 firearm.

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

18 26620. Section 26500 does not apply to the sale, delivery, or
19 transfer of a firearm when made by an authorized law enforcement
20 representative of a city, county, city and county, or of the state or
21 federal government, if both of the following requirements are met:

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

23 (1) A person licensed pursuant to Sections 26700 to 26915,
24 inclusive.

25 (2) A wholesaler.

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

30 (b) The sale, delivery, or transfer of the firearm is not subject
31 to the procedures set forth in Section 18000, 18005, 34000, or
32 34005.

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

34 27600. (a) Article 1 (commencing with Section 27500) does
35 not apply to any sale, delivery, or transfer of firearms made to an
36 authorized law enforcement representative of any city, county,
37 city and county, or state, or of the federal government, for exclusive
38 use by that governmental agency if, prior to the sale, delivery, or
39 transfer of these firearms, written authorization from the head of

1 the agency authorizing the transaction is presented to the person
2 from whom the purchase, delivery, or transfer is being made.

3 (b) Proper written authorization is defined as verifiable written
4 certification from the head of the agency by which the purchaser
5 or transferee is employed, identifying the employee as an individual
6 authorized to conduct the transaction, and authorizing the
7 transaction for the exclusive use of the agency by which that person
8 is employed.

9 (c) Within 10 days of the date a firearm is acquired by the
10 agency, a record of the same shall be entered as an institutional
11 weapon into the Automated Firearms System (AFS) via the
12 California Law Enforcement Telecommunications System
13 (CLETS) by the law enforcement or state agency. Any agency
14 without access to the AFS shall arrange with the sheriff of the
15 county in which the agency is located to input this information via
16 this system.

17 (d) Any agency that is the registered owner of an institutional
18 weapon in accordance with subdivision (c) that subsequently
19 destroys that weapon shall enter information that the weapon has
20 been destroyed into the Automated Firearms System (AFS) via
21 the California Law Enforcement Telecommunications System
22 (CLETS) within 10 days of the destruction in accordance with
23 procedures prescribed by the Department of Justice. Any agency
24 without access to the AFS shall arrange with the sheriff of the
25 county in which the agency is located to input this information via
26 this system.

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

28 27620. Section 27545 does not apply to the sale, delivery, or
29 transfer of a firearm when made by an authorized law enforcement
30 representative of a city, county, city and county, or of the state or
31 federal government, if all of the following conditions are met:

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

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

35 (2) A wholesaler.

36 (3) A manufacturer or importer of firearms or ammunition
37 licensed to engage in that business pursuant to Chapter 44
38 (commencing with Section 921) of Title 18 of the United States
39 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 (c) (1) Except as provided in paragraph (2), if the sale, delivery,
5 or transfer is of a handgun, on the date that the handgun is delivered
6 pursuant to this subdivision, by the agency, a record of the delivery
7 has been entered into the Automated Firearms System (AFS) via
8 the California Law Enforcement Telecommunications System
9 (CLETS) by the law enforcement or state agency. Those agencies
10 without access to the AFS shall arrange with the sheriff of the
11 county in which the agency is located to input this information via
12 this system.

13 (2) If the firearm was initially registered with the Department
14 of Justice by the agency as an institutional weapon or otherwise,
15 on the date that the weapon is delivered pursuant to this section
16 by the agency, a record of the delivery has been entered into the
17 AFS via the CLETS by the law enforcement or state agency. Those
18 agencies without access to the AFS shall arrange with the sheriff
19 of the county in which the agency is located to input this
20 information via this system.

21 SEC. 6. Section 28000 of the Penal Code is amended to read:
22 28000. A person who is exempt from Section 27545 or is
23 otherwise not required by law to report acquisition, ownership,
24 destruction, or disposal of a firearm, or who moves out of this state
25 with the person's firearm, may report that information to the
26 Department of Justice in a format prescribed by the department.

27 SEC. 7. Section 28160 of the Penal Code is amended to read:
28 28160. (a) For all firearms, the register or record of electronic
29 transfer shall include all of the following information:

- 30 (1) The date and time of sale.
- 31 (2) The make of firearm.
- 32 (3) Peace officer exemption status pursuant to the provisions
33 listed in subdivision (c) of Section 16585, and the agency name.
- 34 (4) Any applicable waiting period exemption information.
- 35 (5) California Firearms Dealer number issued pursuant to Article
36 1 (commencing with Section 26700) of Chapter 2.
- 37 (6) For transactions occurring on or after January 1, 2003, the
38 purchaser's handgun safety certificate number issued pursuant to
39 Article 2 (commencing with Section 31610) of Chapter 4 of
40 Division 10 of this title, or pursuant to former Article 8

1 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
2 4, as that article read at any time from when it became operative
3 on January 1, 2003, to when it was repealed by the Deadly
4 Weapons Recodification Act of 2010.

5 (7) Manufacturer's name if stamped on the firearm.
6 (8) Model name or number, if stamped on the firearm.
7 (9) Serial number, if applicable.
8 (10) Other number, if more than one serial number is stamped
9 on the firearm.

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

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

15 (13) Caliber.
16 (14) Type of firearm.
17 (15) If the firearm is new or used.
18 (16) Barrel length.
19 (17) Color of the firearm.
20 (18) Full name of purchaser.
21 (19) Purchaser's complete date of birth.
22 (20) Purchaser's local address.
23 (21) If current address is temporary, complete permanent address
24 of purchaser.
25 (22) Identification of purchaser.
26 (23) Purchaser's place of birth (state or country).
27 (24) Purchaser's complete telephone number.
28 (25) Purchaser's occupation.
29 (26) Purchaser's gender.
30 (27) Purchaser's physical description.
31 (28) All legal names and aliases ever used by the purchaser.
32 (29) Yes or no answer to questions that prohibit purchase,
33 including, but not limited to, conviction of a felony as described
34 in Chapter 2 (commencing with Section 29800) or an offense
35 described in Chapter 3 (commencing with Section 29900) of
36 Division 9 of this title, the purchaser's status as a person described
37 in Section 8100 of the Welfare and Institutions Code, whether the
38 purchaser is a person who has been adjudicated by a court to be a
39 danger to others or found not guilty by reason of insanity, and
40 whether the purchaser is a person who has been found incompetent

1 to stand trial or placed under conservatorship by a court pursuant
2 to Section 8103 of the Welfare and Institutions Code.

3 (30) Signature of purchaser.

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

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

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

10 (34) The establishment number, if assigned.

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

12 (36) Any information required by Chapter 5 (commencing with
13 Section 28050).

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

16 (38) A statement of the penalties for signing a fictitious name
17 or address, knowingly furnishing any incorrect information, or
18 knowingly omitting any information required to be provided for
19 the register.

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

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

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

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

30 (b) The purchaser shall provide the purchaser's right thumbprint
31 on the register in a manner prescribed by the department. No
32 exception to this requirement shall be permitted except by
33 regulations adopted by the department.

34 (c) The firearms dealer shall record on the register or record of
35 electronic transfer the date that the firearm is delivered, together
36 with the firearm dealer's signature indicating delivery of the
37 firearm.

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

1 SEC. 8. Section 28210 of the Penal Code is amended to read:
2 28210. (a) (1) Where the register is used, the purchaser of
3 any firearm shall be required to present to the dealer clear evidence
4 of the person's identity and age.

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

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

10 (b) Any person furnishing a fictitious name or address,
11 knowingly furnishing any incorrect information, or knowingly
12 omitting any information required to be provided for the register
13 shall be punished as provided in Section 28250.

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

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

19 (3) Upon presentation of proper identification, the permanent
20 register of transactions shall be available for inspection by any
21 peace officer, Department of Justice employee designated by the
22 Attorney General, or agent of the federal Bureau of Alcohol,
23 Tobacco, Firearms and Explosives. Until January 1, 2014, no
24 information shall be compiled therefrom regarding the purchasers
25 or other transferees of firearms that are not handguns.

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

29 (e) (1) A photocopy of the register shall be provided to the
30 purchaser by the dealer at the time of delivery of the firearm and
31 after the dealer notes the date of delivery and the purchaser
32 acknowledges the receipt of the firearm.

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

36 (f) If the transaction is a private party transfer conducted
37 pursuant to Chapter 5 (commencing with Section 28050), a
38 photocopy of the original shall be provided to the seller by the
39 dealer at the time the register is signed by the seller. The dealer
40 shall redact all of the purchaser's personal information, as required

1 pursuant to subdivision (a) of Section 28160 and subdivision (a)
2 of Section 28165, from the seller's copy, and the seller's personal
3 information from the purchaser's copy.

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

5 28215. (a) (1) Where the electronic or telephonic transfer of
6 applicant information is used, the purchaser shall be required to
7 present to the dealer clear evidence of the person's identity and
8 age.

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

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

14 (b) Any person furnishing a fictitious name or address,
15 knowingly furnishing any incorrect information, or knowingly
16 omitting any information required to be provided for the electronic
17 or telephonic transfer shall be punished as provided in Section
18 28250.

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

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

24 (3) Upon presentation of proper identification, the permanent
25 record of the transaction shall be provided for inspection by any
26 peace officer, Department of Justice employee designated by the
27 Attorney General, or agent of the federal Bureau of Alcohol,
28 Tobacco, Firearms and Explosives.

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

32 (e) (1) A copy of the record of electronic or telephonic transfer
33 shall be provided to the purchaser by the dealer at the time of
34 delivery of the firearm and after the dealer notes the date of
35 delivery and the purchaser acknowledges the receipt of the firearm.

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

39 (f) If the transaction is a private party transfer conducted
40 pursuant to Chapter 5 (commencing with Section 28050), a copy

1 shall be provided to the seller by the dealer at the time the record
2 of electronic or telephonic transfer is signed by the seller. The
3 dealer shall redact all of the purchaser's personal information, as
4 required pursuant to subdivision (a) of Section 28160 and
5 subdivision (a) of Section 28165, from the seller's copy, and the
6 seller's personal information from the purchaser's copy.

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

8 31835. Subdivision (a) of Section 31615 does not apply to the
9 delivery, sale, or transfer of firearms when made by authorized
10 law enforcement representatives for cities, counties, cities and
11 counties, or of the state or federal government, if all of the
12 following conditions are met:

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

15 (b) The sale, delivery, or transfer of the firearm is not subject
16 to the procedures set forth in Section 18000, 18005, 34000, or
17 34005.

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

20 SEC. 11. ~~Section 34005 of the Penal Code is amended to read:~~

21 ~~34005. (a) (1) An officer having custody of any firearm that~~
22 ~~may be useful to the California National Guard, the Coast Guard~~
23 ~~Auxiliary, or to any military or naval agency of the federal or state~~
24 ~~government, including, but not limited to, the State Military~~
25 ~~Museum and Resource Center, may, upon the authority of the~~
26 ~~legislative body of the city, city and county, or county by which~~
27 ~~the officer is employed and the approval of the Adjutant General,~~
28 ~~deliver the firearm to the commanding officer of a unit of the~~
29 ~~California National Guard, the Coast Guard Auxiliary, or any other~~
30 ~~military agency of the state or federal government, in lieu of~~
31 ~~destruction as required by any of the provisions listed in Section~~
32 ~~16580.~~

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

37 ~~(b) Any law enforcement agency that has custody of any~~
38 ~~firearms, or any parts of any firearms, which are subject to~~
39 ~~destruction as required by any of the provisions listed in Section~~
40 ~~16580, may, in lieu of destroying the weapons, retain and use any~~

1 of them as may be useful in carrying out the official duties of the
2 agency. Alternatively, upon approval of a court, the agency may
3 do either of the following:

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

6 (2) Turn over to the criminalistics laboratory of the Department
7 of Justice or the criminalistics laboratory of a police department,
8 sheriff's office, or district attorney's office, any weapons that may
9 be useful in carrying out the official duties of the respective
10 agencies.

11 (e) (1) Any firearm, or part of any firearm, which, rather than
12 being destroyed, is used for official purposes pursuant to this
13 section, shall be destroyed by the agency using the weapon when
14 it is no longer needed by the agency for use in carrying out its
15 official duties.

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

19 (d) (1) Any law enforcement agency that has custody of any
20 firearms, or any parts of any firearms, which are subject to
21 destruction as required by any of the provisions listed in Section
22 16580, may, in lieu of destroying the firearms, obtain an order
23 from the superior court directing the release of the firearms to the
24 sheriff.

25 (2) The sheriff shall enter those weapons into the Automated
26 Firearms System (AFS), via the California Law Enforcement
27 Telecommunications System, with a complete description of each
28 weapon, including the make, type, category, caliber, and serial
29 number of the firearms, and the name of the academy receiving
30 the weapon entered into the AFS miscellaneous field.

31 (3) The sheriff shall then release the firearms to the basic
32 training academy certified by the Commission on Peace Officer
33 Standards and Training, so that the firearms may be used for
34 instructional purposes in the certified courses. All firearms released
35 to an academy shall be under the care, custody, and control of the
36 particular academy.

37 (4) Any firearm, or part of any firearm, which is not destroyed,
38 and is used for the purposes authorized by this section, shall be
39 returned to the law enforcement agency that had original custody
40 of the firearm when it is no longer needed by the basic training

1 academy, or when the basic training academy is no longer certified
2 by the commission.

3 ~~(5) When those firearms are returned, the law enforcement~~
4 ~~agency to which the firearms are returned, shall on the date of the~~
5 ~~return, enter into the Automated Firearms System (AFS), via the~~
6 ~~California Law Enforcement Telecommunications System, a~~
7 ~~complete description of each weapon, including the make, type,~~
8 ~~category, caliber, and serial number of the firearms, and the name~~
9 ~~of the entity returning the firearm.~~

10 ~~SEC. 12.~~

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