



SB-1332 Firearms. (2015-2016)

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ENROLLED AUGUST 29, 2016

PASSED IN SENATE AUGUST 25, 2016

PASSED IN ASSEMBLY AUGUST 23, 2016

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY AUGUST 01, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 12, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

NO. 1332

Introduced by Senator Mendoza

February 19, 2016

An act to amend Sections 11106, 17060, 26600, 27050, 27600, 28300, and 31705 of, and to add Section 27882 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1332, Mendoza. Firearms.

Existing law requires the Attorney General to maintain a registry of all firearm owners consisting of the name, address, identification of, place of birth, complete telephone number, occupation, sex, description, and all legal names and aliases used by the owner of a particular firearm as listed on the Dealers' Record of Sale or other specified reports.

Existing law establishes the Firearms Safety and Enforcement Special Fund and makes the revenue deposited into that fund available for expenditure by the department upon appropriation by the Legislature for purposes relating to the regulation of firearms.

This bill would, commencing January 1, 2019, require the Department of Justice to modify its registration form so that both spouses or both domestic partners may register as the owners of the firearm and would require the department to maintain both

names on the firearms registry. The bill would additionally make the revenue in the Firearms Safety and Enforcement Special Fund available for the purpose of implementing this registration process.

Existing law also requires the Attorney General to maintain information regarding firearms from certain other reports pertaining to firearms transactions and authorizes specified officers, including peace officers, to disseminate information from specified reports if certain conditions are satisfied, including if the subject of the record has been arraigned for a crime.

This bill would additionally require the Attorney General to maintain the information supplied to the Department of Justice in certain forms submitted by persons who take possession of a firearm pursuant to a specified exception to the general requirement that firearms transactions be completed through a licensed firearms dealer and would authorize information in those forms to be disseminated pursuant to the above provisions.

Existing law requires the loan of a firearm to be conducted through a licensed firearms dealer. Existing law makes a violation of this requirement a crime.

The bill would create exceptions to the dealer requirement for a loan of a firearm in which the firearm is being stored in the receiver's residence or in an enclosed structure on the receiver's private property, if certain criteria are met.

This bill would incorporate changes to Section 11106 of the Penal Code proposed by both this bill and AB 857, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Under current state procedures, the initial acquisition process to acquire a firearm includes, among other requirements, a background check, a firearm safety certificate, and, upon completion of the process, registration of that firearm to that person in the centralized registry as set forth in Section 11106 of the Penal Code.

(2) The current background check and registration process allows only one person to initially acquire and be the registered owner of that firearm.

(3) The California Constitution provides that property owned before marriage or acquired during marriage by gift, will, or inheritance is separate property.

(4) Community property rights are protected through the Due Process Clause and other clauses of the California Constitution.

(5) On July 20, 2015, the California Supreme Court in the case *In re Marriage of Davis* (2015) 61 Cal.4th 846 confirmed that Section 760 of the Family Code specifically allows property acquired by the spouses during the marriage not to be treated as community property where otherwise provided by statute.

(6) Allowing property acquired by spouses during the marriage not to be treated as community property where otherwise provided by statute was foreshadowed by the decision of the Court of Appeals in *Crosby v. H.L.C. Properties LTD* (2014) 223 Cal.App.4th 597, 609, fn. 10.

(7) Under current law, a person who is licensed to carry a handgun in public is licensed to carry a specific handgun, and in many jurisdictions licensing authorities license both spouses to carry the same handgun, but in other jurisdictions licenses to carry will not be issued unless the handgun is first registered to the applicant.

(8) Because carry license information is reported to the Department of Justice and is required to be included in the centralized registry, joint registration is occurring today, albeit under the carry license system.

(9) Joint family firearm registration is expressly allowed for assault weapons and .50 BMG rifles.

(10) Joint spousal firearm registration exists in Hawaii, Maryland, and New York.

(11) Firearms initially constituting separate property may be jointly registered to a spouse via the transmutation process and via the operation of law procedures set forth in subdivision (g) of Section 16990 and paragraph (2) of subdivision (a) of Section 27920 of the Penal Code, without being processed through a state-licensed firearms dealer. The clear intent of those provisions is to allow joint spousal registration via that process but not to otherwise permit joint registration. The amendments to Section 11106 of the Penal Code made by the act that added this section, insofar as relevant, are designed to effectuate that intent.

(12) Also via the operation of law process, separate property of one spouse may be transmuted to another spouse as separate property.

(13) Firearms brought into this state by new residents which were acquired outside of this state by such persons when residents of that other state are being allowed to be jointly registered in effect to both spouses pursuant to the procedures set forth in Section 27560 of the Penal Code, without being processed through a state-licensed firearms dealer. The amendments made to Section 11106 of the Penal Code by the act that added this section, insofar as relevant, are designed to allow that to continue if it is occurring now.

(14) The Department of Justice, pursuant to Section 28000 of the Penal Code, allows a person to deregister a firearm if certain conditions are met, including, among other conditions, providing the department with official documentation that the firearm has, in fact, been disposed of. The amendments made to Section 11106 of the Penal Code by the act that added this section, insofar as relevant, are designed to allow that to continue if it is occurring now.

(15) The process of deregistering a firearm by filing a form pursuant to Section 28000 of the Penal Code detailing the disposal of a firearm because the firearm was transferred to another requires submission to the department of a formal department-generated document stating that the firearm was reregistered. If the disposition form is not submitted pursuant to Section 28000 of the Penal Code, then a firearm may in effect be technically listed as being registered to both parties involved in the transfer.

(16) There are legitimate concerns that if joint firearm registration is explicitly allowed by virtue of the amendments made to Section 11106 of the Penal Code by the act that added this section, it may create a number of issues regarding third-party rights when the time comes to dispose of those jointly registered firearms. Those concerns exist now as to jointly registered .50 BMG rifles and assault weapons.

(b) It is the intent of the Legislature, if joint firearm registration does not occur pursuant to the amendments made to Section 11106 of the Penal Code by the act that added this section, to enact legislation that will go into effect prior to January 1, 2019, to implement an explicit joint firearm registration system in a user-friendly manner that protects public safety and does not complicate the disposition of firearms that are jointly registered.

(c) It is also the intent of the Legislature that the Department of Justice make available on its Internet Web site, in an editable public display format, the form referred to in Section 27882 of the Penal Code.

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

11106. (a) (1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), 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 of the following:

(A) All copies of fingerprints.

(B) Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

(C) Information reported to the Department of Justice pursuant to Section 26225, 27875, 27920, 27966, or 29830.

(D) Dealers' records of sales of firearms.

(E) Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

(F) Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

(G) Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms.

(H) Information provided pursuant to Section 28255.

(I) Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

(2) The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

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

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

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

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

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

(E) Former Section 12084.

(F) Section 28255.

(G) Any other law.

(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 firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255, 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 firearm 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 any provision listed in subdivision (a) of Section 16585 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 firearm 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, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(E) Commencing January 1, 2019, the name of the person and his or her spouse or domestic partner if the firearm is registered to both persons. The department shall modify its registration forms to the extent necessary, if it has not already done so, so that both spouses or both domestic partners may register as the owners of the firearm. This subparagraph shall not require the department to change the Dealers' Record of Sale form.

(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, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

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

(c) (1) If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to any of the following:

(A) Section 26225, 27875, 27920, or 27966.

(B) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

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

(D) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(E) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6.

(F) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6.

(G) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

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

(2) Information may be disseminated pursuant to paragraph (1) only if all of the following conditions are satisfied:

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

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

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

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

SEC. 2.5. Section 11106 of the Penal Code is amended to read:

11106. (a) (1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), 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 of the following:

(A) All copies of fingerprints.

(B) Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

(C) Information reported to the Department of Justice pursuant to Section 26225, 27875, 27920, 27966, 29180, or 29830.

(D) Dealers' records of sales of firearms.

(E) Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

(F) Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

(G) Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms.

(H) Information provided pursuant to Section 28255.

(I) Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

(2) The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

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

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

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

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

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

(E) Former Section 12084.

(F) Section 28255.

(G) Section 29180.

(H) Any other law.

(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 firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255 or 29180, 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 firearm 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 any provision listed in subdivision (a) of Section 16585 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 firearm 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, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(E) Commencing January 1, 2019, the name of the person and his or her spouse or domestic partner if the firearm is registered to both persons. The department shall modify its registration forms to the extent necessary, if it has not already done so, so that both spouses or both domestic partners may register as the owners of the firearm. This subparagraph shall not require the department to change the Dealers' Record of Sale form.

(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, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

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

(c) (1) If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to any of the following:

(A) Section 26225, 27875, 27920, or 27966.

(B) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

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

(D) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(E) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6.

(F) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6.

(G) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

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

(2) Information may be disseminated pursuant to paragraph (1) only if all of the following conditions are satisfied:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued

by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

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

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

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

SEC. 3. Section 17060 of the Penal Code is amended to read:

17060. (a) As used in Section 25135, "residence" means any structure intended or used for human habitation, including, but not limited to, houses, condominiums, rooms, motels, hotels, time-shares, and recreational or other vehicles where human habitation occurs.

(b) As used in Section 27882, "residence" means any structure intended or used for human habitation, including, but not limited to, houses, condominiums, rooms, motels, hotels, and time-shares, but does not include a recreational or other vehicle where human habitation occurs.

SEC. 4. Section 26600 of the Penal Code is amended to read:

26600. (a) Section 26500 does not apply to any sale, delivery, transfer, or loan of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, transfer, or loan of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, transfer, or loan is being made.

(b) 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 that person is employed.

(c) Within 10 days of the date a firearm is acquired or received by the agency pursuant to this section, 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. Any agency 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.

SEC. 5. Section 27050 of the Penal Code is amended to read:

27050. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to any sale, delivery, transfer, or loan of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, transfer, or loan of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, transfer, or loan is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, recipient, 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 that person is employed.

(c) Within 10 days of the date a firearm is acquired or received by the agency pursuant to this section, 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. Any agency 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.

SEC. 6. Section 27600 of the Penal Code is amended to read:

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

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, recipient, 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 that person is employed.

(c) Within 10 days of the date a firearm is acquired or received by the agency pursuant to this section, 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. Any agency without access to the AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

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

SEC. 7. Section 27882 is added to the Penal Code, to read:

27882. Section 27545 does not apply to the loan of a firearm provided all of the following are met:

(a) The firearm being loaned is registered to the person making the loan pursuant to Section 11106.

(b) The firearm being loaned is stored in the receiver's place of residence or in an enclosed structure on the receiver's private property, which is not zoned for commercial, retail, or industrial activity.

(c) The firearm at all times stays within the receiver's place of residence or in an enclosed structure on the receiver's private property, which is not zoned for commercial, retail, or industrial activity.

(d) The individual receiving the firearm is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) The individual receiving the firearm is 18 years of age or older.

(f) The individual receiving the firearm has a valid firearm safety certificate, except that if the firearm being loaned is a handgun, the individual may instead have an unexpired handgun safety certificate.

(g) One of the following applies:

(1) The firearm is maintained within a locked container.

(2) The firearm is disabled by a firearm safety device.

(3) The firearm is maintained within a locked gun safe.

(4) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.

(h) The loan does not exceed 30 days in duration.

(i) The loan is made without consideration.

(j) There is writing in a format prescribed by the Department of Justice that explains the obligations imposed by this section that is signed by both the party loaning the firearm for storage and the person receiving the firearm.

(k) Both parties to the loan have signed copies of the writing required by subdivision (j).

SEC. 8. Section 28300 of the Penal Code is amended to read:

28300. (a) The Firearms Safety and Enforcement Special Fund is hereby established in the State Treasury and shall be administered by the Department of Justice.

(b) The Department of Justice may require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction, 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, and not to exceed the reasonable cost of regulation to the department. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund.

(c) Revenue deposited into the Firearms Safety and Enforcement Special Fund shall be available for expenditure by the Department of Justice upon appropriation by the Legislature for all of the following:

(1) Implementing and enforcing the provisions of Article 2 (commencing with Section 31610) of Chapter 4 of Division 10.

(2) Enforcing Section 830.95.

(3) Implementing subparagraph (E) of paragraph (2) of subdivision (b) of Section 11106.

(4) Enforcing Title 2 (commencing with Section 12001) of Part 4.

(5) Enforcing Sections 16000 to 16960, inclusive.

(6) Enforcing Sections 16970 to 17230, inclusive.

(7) Enforcing Sections 17240 to 21390, inclusive.

(8) Enforcing Sections 21590 to 34370, inclusive.

(9) The establishment, maintenance, and upgrading of equipment and services necessary for firearms dealers to comply with Article 2 (commencing with Section 28150).

SEC. 9. Section 31705 of the Penal Code is amended to read:

31705. (a) Subdivision (a) of Section 31615 does not apply to any sale, delivery, transfer, or loan of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, transfer, or loan of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, transfer, or loan is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, recipient, 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 that person is employed.

(c) Within 10 days of the date a firearm is acquired or received by the agency pursuant to this section, 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. Any agency 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.

SEC. 10. The Legislature finds and declares that the amendments made to Sections 26600, 27050, 27600, and 31705 of the Penal Code by this act are declaratory of existing law.

SEC. 11. Section 2.5 of this bill incorporates amendments to Section 11106 of the Penal Code proposed by both this bill and Assembly Bill 857. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 11106 of the Penal Code, and (3) this bill is enacted after Assembly Bill 857, in which case Section 2 of this bill shall not become operative.