

Memorandum 2008-23

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Title 1. Preliminary Provisions (Reevaluation of Certain Definitions)**

At the direction of the Legislature (2006 Cal. Stat. res. ch. 128), the Commission is conducting a nonsubstantive study of the statutes relating to deadly weapons. The goal of the study is to reorganize those statutes in a user-friendly manner, without changing their substantive effect. The Commission is in the process of preparing a tentative recommendation, which will be broadly circulated for comment.

At the April meeting, the Commission considered a complete draft of "Title 1. Preliminary Provisions" of new Part 6 of the Penal Code. The Commission discussed whether the technique of consolidating all definitions at the beginning of new Part 6 might in some instances cause a reader to overlook a definition of a commonplace word, such as "immediate" or "infrequent." This memorandum discusses implementation of the guidance that the Commission gave on this point in April.

Attached is a new draft of "Title 1. Preliminary Provisions," which incorporates the revisions recommended in this memorandum. A few other revisions are also noted.

Unless otherwise indicated, all statutory references in this memorandum are to the Penal Code.

USE OF QUOTATION MARKS TO FLAG DEFINED TERMS

At the April meeting, the Commission considered the possibility of putting each defined term in quotes every time it is used in statutory text to which the definition applies. The Commission directed the staff to determine whether Legislative Counsel would be open to that approach. If so, then the staff was to experiment with the approach in preparing new drafts of deadly weapons material for the Commission.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The staff has since discussed this matter with Legislative Counsel, who has firmly indicated that the quotation mark approach would not be acceptable. Consequently, we have not used the approach in the drafts prepared for the upcoming meeting.

DEFINITIONS OF COMMONPLACE WORDS

At the April meeting, the Commission concluded that although most definitions should be placed in “Division 2. Definitions” of “Title 1. Preliminary Provisions” of new Part 6, some “deviations from this rule may be appropriate, particularly when a commonplace word is defined only for purposes of a particular provision.” Minutes (April 2008), p. 6. The Commission directed the staff to “use its discretion in determining where to place each definition, subject to subsequent review by the Commission.” *Id.* The Commission also noted that in some instances a statutory cross-reference might be useful, to alert a reader to the existence and location of a definition, rather than relocating the definition. *Id.*

The staff has since reevaluated “Division 2. Definitions” in light of that guidance. Our suggested revisions are described below.

“Child”

The definition of “child” previously presented in proposed Section 16390 would apply only for purposes of the provisions that would continue existing Sections 12035 and 12036, which use the term “child” repeatedly. See Memorandum 2008-17, Attachment p. 11. The term is used differently elsewhere. See Memorandum 2007-33, Attachment p. 17.

To help ensure that the applicable definition of this commonplace word is not overlooked, we recommend that **the definition of “child” be relocated to “Division 4. Storage of Firearms”** of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provisions that continue existing Sections 12035 and 12036 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 4. Storage of Firearms.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definition of “child” in close proximity to the provisions in which the term is used as defined.

“Furnishes”

The definition of “furnishes” previously presented in proposed Section 16580 would apply only for purposes of the provision that continues existing Section 12552. See Memorandum 2008-17, Attachment p. 19. The term “furnishes” is also used without definition elsewhere. See Memorandum 2007-33, Attachment pp. 30-31.

To help ensure that the applicable definition of this commonplace word is not overlooked, we recommend that **the definition of “furnishes” be relocated to “Chapter 3. BB Devices and Imitation Firearms”** of “Division 3. Disguised or Misleading Appearance” of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provision that would continue existing Section 12552 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Chapter 3. BB Devices and Imitation Firearms,” but hope to do so before the upcoming meeting. After that material is drafted, the Commission and interested persons will be able to assess how well it works to put the definition of “furnishes” in close proximity to the provision in which the term is used as defined.

“Immediate”

The definition of “immediate” previously presented in proposed Section 16710 would apply only for purposes of the provision that continues existing Section 12031(j). See Memorandum 2008-17, Attachment p. 24. The term “immediate” is also used without definition elsewhere. See *id.*

To help ensure that the applicable definition of this commonplace word is not overlooked, we recommend that **the definition of “immediate” be relocated to “Chapter 3. Carrying Loaded Firearm”** of “Division 5. Carrying Firearms” of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provision that would continue existing Section 12031(j) would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Chapter 3. Carrying Loaded Firearm.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definition of “immediate” in close proximity to the provision in which the term is used as defined.

“Infrequent”

The definition of “infrequent” previously presented in subdivision (a) of proposed Section 16730 would apply to the entirety of new Part 6. See Memorandum 2008-17, Attachment pp. 24-25. Subdivision (b) of proposed Section 16730 would add further explanation regarding the meaning of “infrequent” in the provision that continues the first sentence of existing Section 12078(g)(1). See *id.*

Both of these definitions pertain to frequency of firearm transactions. The only provisions in Title 2 of Part 4 that use the term “infrequent” are existing Sections 12070 and 12078.

To help ensure that the applicable definitions of this commonplace word are not overlooked, we recommend that **the definitions of “infrequent” be relocated to “Division 6. Sale, Lease, or Transfer of Firearms”** of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provisions that continue existing Section 12070 and most of the pertinent material in existing Section 12078 would be located.

Consistent with this relocation, **we would limit the scope of the definition to “Division 6. Sale, Lease, or Transfer of Firearms,”** instead of applying it to the entirety of new Part 6. Such a limitation is appropriate not only because of the relocation, but also because the definition of “infrequent” pertains specifically to frequency of firearm transactions. It is readily conceivable that future legislation might use the term “infrequent” in a completely different context that should not be subject to such a definition.

The definition of “infrequent” previously presented in proposed Section 16730(a) would also have to be included or cross-referenced in “Article 2. Handgun Safety Certificate” of “Chapter 4. Handguns” of “Division 10. Special Rules Relating to Particular Types of Firearms or Firearm Equipment” of “Title 4. Firearms and Similar Weapons” of new Part 6. That is because “infrequent” is used in existing Section 12078(s)(1), which states an exception to existing Section 12801(b).

In the outline of new Part 6, the material now in Section 12801(b) would be placed in “Article 2. Handgun Safety Certificate.” Consequently, the exception to Section 12801(b) stated in Section 12078(s)(1) would also be placed in “Article 2. Handgun Safety Certificate.” See Minutes (April 2007), p. 9 (discussing treatment of exceptions in Section 12078). That means the definition of “infrequent”

previously presented in proposed Section 16730(a) should be included in or cross-referenced in “Article 2. Handgun Safety Certificate.”

We have revised the outline of new Part 6 to reflect these recommendations. See Memorandum 2008-22. We have not yet drafted “Division 6. Sale, Lease, or Transfer of Firearms” and “Article 2. Handgun Safety Certificate.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definitions of “infrequent” in close proximity to the provisions in which the term is used as defined.

“Locking Device”

The definition of “locking device” previously presented in proposed Section 16860 would apply only for purposes of the provisions that would continue existing Sections 12035 and 12036. See Memorandum 2008-17, Attachment p. 32. The definition refers to a device that can be used to render a firearm inoperable. See *id.* The term is used only once in Section 12035 and once in Section 12036.

The term “locking device” is also used without definition elsewhere, sometimes in a similar context and sometimes in a different context. See *id.* At some point in the future (not in this nonsubstantive reorganization), it might be appropriate to extend proposed Section 16860’s definition of “locking device” to other provisions that refer to a device that can be used to render a firearm inoperable. See Memorandum 2008-17, Attachment p. 32.

To help ensure that the applicable definition of this fairly common phrase is not overlooked, we recommend that **the definition of “locking device” be cross-referenced in (1) the provision that would continue the pertinent part of existing Section 12035 and (2) the provision that would continue the pertinent part of existing Section 12036.** This approach would draw attention to the definition of “locking device,” yet the definition would be in a location that would remain appropriate even if the definition is extended more broadly in the future.

We further recommend that the **leadline for proposed Section 16860 be changed from “locking device” to “‘locking device’ for firearm.”** That would help emphasize that the definition applies specifically to a firearm, not more broadly.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 4. Storage of Firearms,” which would contain the provisions that would continue existing Sections 12035 and 12036.

After that material is drafted, the Commission and interested persons will be able to assess how well it works to cross-refer to the definition of “locking device” in the provisions that use the term as defined.

“Major Component”

The definition of “major component” previously presented in proposed Section 16905 would apply to the entirety of new Part 6. See Memorandum 2008-17, Attachment p. 34. The definition concerns what constitutes a “major component” of a firearm. It incorporates by reference the definition used in Section 922 of Title 18 of the United States Code: “Major component” means “the barrel, the slide or cylinder, or the frame or receiver of the firearm.” The term “major component” is only used once in the substantive material that would be recodified in new Part 6 — in existing Section 12020(c)(22), which defines “undetectable firearm.”

It is readily conceivable that the Legislature might use the phrase “major component” in a different context in future legislation, such as in reference to a “major component” of a destructive device. The above definition of “major component” would not make sense in that context, yet the Legislature might not notice this problem in drafting the legislation.

Another problem is that the phrase “major component” is fairly common, so it might not be recognized as a term of art. A person using the code might overlook its definition, even if the definition is referenced in the Commission’s Comment to the provision in which the phrase is used as defined.

These problems could be addressed by **(1) relocating the definition of “major component” to the sole provision where it is used (the definition of “undetectable firearm”) and (2) using the definition only in that provision**, instead of applying it to the entirety of new Part 6. That approach could be implemented by **revising proposed Section 17280 as follows:**

§ 17280. “Undetectable firearm”

17280. As used in this part, “undetectable firearm” means a weapon that meets either of the following requirements:

(a) After removal of grips, stocks, and magazines, the weapon is not as detectable as the Security Exemplar, by a walk-through metal detector calibrated and operated to detect the Security Exemplar.

(b) Any major component of the weapon, as defined in Section 922 of Title 18 of the United States Code, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the

shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

Comment. Section 17280 continues former Section 12020(c)(22)(A)-(B) without substantive change. With respect to the definition of “major component,” Section 17280 also continues former Section 12020(c)(22)(C) without substantive change.

See Sections 16520(a) & (f) (“firearm”), ~~16905 (“major component”)~~, 17125 (“Security Exemplar”).

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have also incorporated the above version of proposed Section 17280 in the attached draft of “Title 1. Preliminary Provisions” of new Part 6. The Commission and interested persons **should assess whether this treatment of the definition of “major component” is satisfactory.**

“Malfunction”

The definition of “malfunction” previously presented in proposed Section 16910 would apply only for purposes of proposed Section 16560, which defines “firing requirement for handguns.” See Memorandum 2008-17, Attachment p. 19. The term “malfunction” is also used without definition and obviously different meaning elsewhere. See Memorandum 2007-33, Attachment pp. 39-40.

To help ensure that the applicable definition of this commonplace word is not overlooked, we recommend that **the definition of “malfunction” be relocated in the definition of “firing requirement for handguns.”** That could be done by **revising proposed Section 16560 as follows:**

§ 16560. “Firing requirement for handguns”

16560. (a) As used in this part, “firing requirement for handguns” means a test in which the manufacturer provides three handguns of the make and model for which certification is sought to an independent testing laboratory certified by the Attorney General pursuant to [Section 12130]. These handguns may not be refined or modified in any way from those that would be made available for retail sale if certification is granted. The magazines of a tested pistol shall be identical to those that would be provided with the pistol to a retail customer.

(b) The test shall be conducted as follows:

(1) The laboratory shall fire 600 rounds from each gun, stopping after each series of 50 rounds has been fired for 5 to 10 minutes to allow the weapon to cool, stopping after each series of 100 rounds has been fired to tighten any loose screws and clean the gun in accordance with the manufacturer’s instructions, and stopping as needed to refill the empty magazine or cylinder to capacity before continuing.

(2) The ammunition used shall be of the type recommended by the handgun manufacturer in the user manual, or if none is recommended, any standard ammunition of the correct caliber in new condition that is commercially available.

(c) A handgun shall pass this test if each of the three test guns meets both of the following:

(1) Fires the first 20 rounds without a malfunction that is not due to ammunition that fails to detonate.

(2) Fires the full 600 rounds with no more than six malfunctions that are not due to ammunition that fails to detonate and without any crack or breakage of an operating part of the handgun that increases the risk of injury to the user.

(d) If a pistol or revolver fails the requirements of either paragraph (1) or (2) of subdivision (c) due to ammunition that fails to detonate, the pistol or revolver shall be retested from the beginning of the “firing requirement for handguns” test. A new model of the pistol or revolver that failed due to ammunition that fails to detonate may be submitted for the test to replace the pistol or revolver that failed.

(e) As used in this section, “malfunction” means a failure to properly feed, fire, or eject a round, or failure of a pistol to accept or eject the magazine, or failure of a pistol’s slide to remain open after the magazine has been expended.

Comment. Section 16560 continues former Section ~~12127(a)-(b)~~ 12127(a)-(c) without substantive change.

See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”), ~~16910 (“malfunction”).~~

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have also incorporated the above version of proposed Section 16560 in the attached draft of “Title 1. Preliminary Provisions” of new Part 6. The Commission and interested persons **should assess whether this treatment of the definition of “malfunction” is satisfactory.**

“Off-premises”

The definition of “off-premises” previously presented in proposed Section 16950 would apply only for purposes of the provision(s) that would continue existing Section 12036. See Memorandum 2008-17, Attachment p. 36. The term is also used without definition elsewhere. See Memorandum 2007-33, Attachment p. 17.

To help ensure that the applicable definition of this commonplace word is not overlooked, we recommend that **the definition of “off-premises” be relocated to “Division 4. Storage of Firearms”** of “Title 4. Firearms and Similar Weapons”

of new Part 6. That is where the provision(s) that continue existing Section 12036 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 4. Storage of Firearms.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definition of “off-premises” in close proximity to the provision(s) in which the term is used as defined.

“Public place”

The definition of “public place” previously presented in proposed Section 17040 would apply only for purposes of the provision(s) that would continue existing Section 12556. See Memorandum 2008-17, Attachment pp. 40-41. Among other things, the definition includes “front yards.” The term “public place” is also used without definition and perhaps different meaning elsewhere. See Memorandum 2007-33, Attachment p. 17.

To help ensure that the applicable definition of this commonplace phrase is not overlooked, we recommend that **the definition of “public place” be relocated to “Chapter 3. BB Devices and Imitation Firearms”** of Division 3. Disguised or Misleading Appearance” of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provision(s) that continue existing Section 12556 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Chapter 3. BB Devices and Imitation Firearms,” but hope to do so before the upcoming meeting. After that material is drafted, the Commission and interested persons will be able to assess how well it works to put the definition of “public place” in close proximity to the provision(s) in which the term is used as defined.

“Purchase” and “Purchaser”

The definition of “purchase” previously presented in proposed Section 17050 would apply only for purposes of the provisions that would continue existing Sections 12076 and 12077. See Memorandum 2008-17, Attachment p. 41. The term is also used without definition elsewhere. See *id.*

Similarly, the definition of “purchaser” previously presented in proposed Section 17060 would apply only for purposes of the provisions that would continue existing Sections 12076 and 12077. See Memorandum 2008-17, Attachment pp. 41-42. The term is also used without definition elsewhere. See *id.*

The definition of “purchase” in proposed Section 17050 includes not only “the purchase ... of a firearm,” but also the “loan” or “transfer” of a firearm. Similarly, the definition of “purchaser” in proposed Section 17060 includes not only “the purchaser ... of a firearm,” but also the “transferee of a firearm or a person being loaned a firearm.” These definitions are broad in scope, yet specific to the context of a firearm transaction. Where the terms “purchase” and “purchaser” are used without definition, the Legislature might have intended a narrower meaning or a different context, at least in some places.

To help ensure that the broad definitions of “purchase” and “purchaser” are not overlooked by persons using the code sections that are subject to those definitions, we recommend that **the definitions be relocated to “Division 6. Sale, Lease, or Transfer of Firearms”** of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provisions that continue existing Sections 12076 and 12077 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 6. Sale, Lease, or Transfer of Firearms.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definitions of “purchase” and “purchaser” in close proximity to the provisions in which the terms are used as defined.

“Sale” and “Seller”

The definition of “sale” previously presented in proposed Section 17100 would apply only for purposes of the provisions that would continue existing Sections 12076 and 12077. See Memorandum 2008-17, Attachment p. 43. The term is also used without definition elsewhere. See *id.*

Similarly, the definition of “seller” previously presented in proposed Section 17130 would apply only for purposes of the provisions that would continue existing Section 12076. See Memorandum 2008-17, Attachment pp. 46-47. The term is also used without definition elsewhere. See *id.* at 47.

The definition of “sale” in proposed Section 17100 includes not only “the sale ... of a firearm,” but also the “loan” or “transfer” of a firearm. Similarly, the definition of “seller” in proposed Section 17130 includes not only “the person selling the firearm” in a transaction under existing Section 12082, but also the person “loaning” or “transferring” the firearm in such a transaction. These definitions are broad in scope, yet specific to the context of a firearm transaction.

Where the terms “sale” and “seller” are used without definition, the Legislature might have intended a narrower meaning or a different context, at least in some places.

To help ensure that the broad definitions of “sale” and “seller” are not overlooked by persons using the code sections that are subject to those definitions, we recommend that **the definitions be relocated to “Division 6. Sale, Lease, or Transfer of Firearms”** of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provisions that continue existing Sections 12076 and 12077 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 6. Sale, Lease, or Transfer of Firearms.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definitions of “sale” and “seller” in close proximity to the provisions in which the terms are used as defined.

“Secured”

The definition of “secured” previously presented in proposed Section 17120 would apply only for purposes of the provisions that would continue existing Section 12071. See Memorandum 2008-17, Attachment p. 46. The term is also used elsewhere without definition and, at least in some places, obviously different meaning. See *id.*

To help ensure that the applicable definition of this commonplace word is not overlooked, we recommend that **the definition of “secured” be relocated to “Division 6. Sale, Lease, or Transfer of Firearms”** of “Title 4. Firearms and Similar Weapons” of new Part 6. That is where the provisions that would continue existing Section 12071 would be located.

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 6. Sale, Lease, or Transfer of Firearms.” After that material is drafted, the Commission and interested persons will be able to assess how well it works to place the definition of “secured” in close proximity to the provisions in which the term is used as defined.

“Series”

The definition of “series” previously presented in proposed Section 17150 would apply only for purposes of proposed Section 16200, the definition of

“assault weapon.” See Memorandum 2008-17, Attachment p. 48. The term is also used elsewhere without definition and obviously different meaning. See *id.*

To help ensure that the applicable definition of this fairly common word is not overlooked, we recommend that **the definition of “series” be relocated in the definition of assault weapon.** That could be done by **revising proposed Section 16200 as follows:**

§ 16200. “Assault weapon”

16200. As used in [Sections 12011(a), 12072], 16110, 16780, and 17000 and in [Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4], “assault weapon” means the following designated semiautomatic firearms:

- (a) All of the following specified rifles:
 - (1) All AK series including, but not limited to, the models identified as follows:
 - (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.
 - (B) Norinco 56, 56S, 84S, and 86S.
 - (C) Poly Technologies AKS and AK47.
 - (D) MAADI AK47 and ARM.
 - (2) UZI and Galil.
 - (3) Beretta AR-70.
 - (4) CETME Sporter.
 - (5) Colt AR-15 series.
 - (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.
 - (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.
 - (8) MAS 223.
 - (9) HK-91, HK-93, HK-94, and HK-PSG-1.
 - (10) The following MAC types:
 - (A) RPB Industries Inc. sM10 and sM11.
 - (B) SWD Incorporated M11.
 - (11) SKS with detachable magazine.
 - (12) SIG AMT, PE-57, SG 550, and SG 551.
 - (13) Springfield Armory BM59 and SAR-48.
 - (14) Sterling MK-6.
 - (15) Steyer AUG.
 - (16) Valmet M62S, M71S, and M78S.
 - (17) Armalite AR-180.
 - (18) Bushmaster Assault Rifle.
 - (19) Calico M-900.
 - (20) J&R ENG M-68.
 - (21) Weaver Arms Nighthawk.
- (b) All of the following specified pistols:
 - (1) UZI.
 - (2) Encom MP-9 and MP-45.
 - (3) The following MAC types:
 - (A) RPB Industries Inc. sM10 and sM11.

- (B) SWD Incorporated M-11.
- (C) Advance Armament Inc. M-11.
- (D) Military Armament Corp. Ingram M-11.
- (4) Intratec TEC-9.
- (5) Sites Spectre.
- (6) Sterling MK-7.
- (7) Calico M-950.
- (8) Bushmaster Pistol.
- (c) All of the following specified shotguns:
 - (1) Franchi SPAS 12 and LAW 12.
 - (2) Striker 12.
 - (3) The Streetsweeper type S/S Inc. SS/12.
- (d) Any firearm declared by the court pursuant to [Section 12276.5] to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to [Section 12276.5].
- (e) This section is declaratory of existing law and a clarification of the law and the Legislature's intent which bans the weapons enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to [Section 12276.5], and any other models that are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.
- (f) As used in this section, "series" includes all other models that are only variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.

Comment. Subdivisions (a)-(d) and the introductory clause of Section 16200 continue former Section 12276(a)-(d) and its introductory clause without substantive change.

Subdivision (e) continues former Section 12276(f) without substantive change.

Subdivision (f) continues former Section 12276(e) without substantive change.

See Sections 16201 (further clarification of "assault weapon"), 16202 (exemptions from definition of "assault weapon"), ~~17150 ("series").~~

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have also incorporated the above version of proposed Section 16200 in the attached draft of "Title 1. Preliminary Provisions" of new Part 6. The Commission and interested persons **should assess whether this treatment of the definition of "series" is satisfactory.**

“Transaction”

The definition of “transaction” previously presented in subdivision (a) of proposed Section 17260 would apply only for purposes of the definition of “infrequent.” See Memorandum 2008-17, Attachment p. 52. As discussed above, we suggest placing the definition of “infrequent” in “Division 6. Sale, Lease, or Transfer of Firearms,” and also including or cross-referencing that definition in “Article 2. Handgun Safety Certificate.”

A different definition of “transaction” was previously presented in subdivision (b) of proposed Section 17260. See Memorandum 2008-17, Attachment p. 52. That definition would apply only for purposes of the provision that would continue existing Section 12077(d).

The term “transaction” is also used without definition elsewhere. See Memorandum 2008-17, Attachment p. 52.

To help ensure that the applicable definitions of the commonplace term “transaction” are not overlooked by persons using the code sections that are subject to those definitions, **we recommend the following:**

- (1) The definition previously presented in proposed Section 17260(a) should be placed with the definition of “infrequent” in “Division 6. Sale, Lease, or Transfer of Firearms” of “Title 4. Firearms and Similar Weapons” of new Part 6.
- (2) The definition previously presented in proposed Section 17260(a) should also be included or cross-referenced in “Article 2. Handgun Safety Certificate” of “Chapter 4. Handguns” of “Division 10. Special Rules Relating to Particular Types of Firearms or Firearm Equipment” of “Title 4. Firearms and Similar Weapons” of new Part 6.
- (3) The definition previously presented in proposed Section 17260(b) should be relocated to “Division 6. Sale, Lease, or Transfer of Firearms” of “Title 4. Firearms and Similar Weapons” of new Part 6. It should be placed in proximity to the provision that continues existing Section 12077(d).

We have revised the outline of new Part 6 accordingly. See Memorandum 2008-22. We have not yet drafted “Division 6. Sale, Lease, or Transfer of Firearms” and “Article 2. Handgun Safety Certificate.” After that material is drafted, the Commission and interested persons will be able to assess whether the proposed treatment of the two definitions of “transaction” is effective.

NEW DEFINITIONS

In preparing previous drafts of “Title 1. Preliminary Provisions,” we overlooked that existing Section 653k contains definitions of “switchblade knife” and “passenger’s or driver’s area.” Section 653k is not located in Title 2 of Part 4, but the Commission previously decided to include its substance in new Part 6. Minutes (April 2007), p. 12; see also Memorandum 2007-15, pp. 14-15. Thus, we have included definitions of “switchblade knife” and “passenger’s or driver’s area” in the attached new draft of “Title 1. Preliminary Provisions.”

PROCEDURE AT THE UPCOMING MEETING

The attached draft of “Title 1. Preliminary Provisions” incorporates the revisions recommended in this memorandum, as well as a few other revisions. All new or revised material is shown in *italics*, except if the only revision was to replace a cross-reference to an existing provision with a cross-reference to the corresponding new provision, or to correct alphabetization or a cross-reference to a new provision.

The staff does not plan to discuss each italicized provision and point covered in this memorandum at the upcoming meeting. Rather, persons should review the draft and memorandum, identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing before the meeting, or both.

Respectfully submitted,

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PROPOSED LEGISLATION

Staff Note. This is a work in progress. The material shown below may be changed. For an outline of new Part 6 of the Penal Code, see Memorandum 2008-22.

Most of the material in this draft of Title 1 has been previously presented. That material is shown in normal typeface. *New or revised material is italicized*, except if the only revision was to replace a cross-reference to an existing provision with a cross-reference to the corresponding new provision, or to correct alphabetization or a cross-reference to a new provision.

Staff Notes (**Staff Note**) in the attached draft raise matters for Commissioners and interested persons to consider. We do not plan to discuss each of these matters at the upcoming meeting. Rather, persons should review the draft, identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing before the meeting, or both.

Some of the provisions in this draft contain a bracketed cross-reference to one or more existing code sections. As new Part 6 of the Penal Code is drafted, these cross-references will be conformed to the new numbering scheme.

Blanks are used to indicate references to sections that have not yet been drafted (e.g., “Section _____”).

All of the proposed provisions would be located in the Penal Code. All references are to the Penal Code unless otherwise noted.

1 **Penal Code §§ 16100-_____ (added). Control of deadly weapons**
2 SEC. _____. Part 6 (commencing with Section 16100) is added to the Penal Code,
3 to read:

4 PART 6. CONTROL OF DEADLY WEAPONS

5 TITLE 1. PRELIMINARY PROVISIONS

6 DIVISION 1. GENERAL PROVISIONS [RESERVED]

7 DIVISION 2. DEFINITIONS

8 **§ 16100. “.50 BMG cartridge”**

9 16100. As used in this part, “.50 BMG cartridge” means a cartridge that is
10 designed and intended to be fired from a center fire rifle and that meets all of the
11 following criteria:

- 12 (a) It has an overall length of 5.54 inches from the base to the tip of the bullet.
13 (b) The bullet diameter for the cartridge is from .510 to, and including, .511
14 inch.
15 (c) The case base diameter for the cartridge is from .800 inch to, and including,
16 .804 inch.
17 (d) The cartridge case length is 3.91 inches.

18 **Comment.** Section 16100 continues former Section 12278(b) without substantive change.

1 **§ 16110. “.50 BMG rifle”**

2 16110. (a) As used in this part, “.50 BMG rifle” means a center fire rifle that can
3 fire a .50 BMG cartridge and is not already an assault weapon or a machinegun.

4 (b) A “.50 BMG rifle” does not include any antique firearm, nor any curio or
5 relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

6 **Comment.** Subdivision (a) of Section 16110 continues former Section 12278(a) without
7 substantive change. See Sections 16200 (“assault weapon”), 16201 (further clarification of
8 “assault weapon”), 16202 (exemptions from definition of “assault weapon”), 16880
9 (“machinegun”).

10 Subdivision (b) continues former Section 12278(c) without substantive change. See Section
11 16170 (“antique firearm”).

12 **§ 16120. “Abuse”**

13 16120. As used in this part, “abuse” means any of the following:

14 (a) Intentionally or recklessly to cause or attempt to cause bodily injury.

15 (b) Sexual assault.

16 (c) To place a person in reasonable apprehension of imminent serious bodily
17 injury to that person or to another.

18 (d) To molest, attack, strike, stalk, destroy personal property, or violate the
19 terms of a domestic violence protective order issued pursuant to Part 4
20 (commencing with Section 6300) of Division 10 of the Family Code.

21 **Comment.** Section 16120 continues former Section 12028.5(a)(1) without substantive change.

22 **§ 16130. “Agent”**

23 16130. As used in [Section 12071], “agent” means an employee of the licensee.

24 **Comment.** Section 16130 continues former Section 12071(b)(20)(G)(i) without substantive
25 change.

26 **§ 16140. “Air gauge knife”**

27 16140. As used in this part, “air gauge knife” means a device that appears to be
28 an air gauge but has concealed within it a pointed, metallic shaft that is designed to
29 be a stabbing instrument which is exposed by mechanical action or gravity which
30 locks into place when extended.

31 **Comment.** Section 16140 continues former Section 12020(c)(18) without substantive change.

32 **§ 16150. “Ammunition”**

33 16150. (a) As used in [Section 12316(a)(1)(b)], “ammunition” means handgun
34 ammunition as defined in Section 16650.

35 (b) As used in [Section 12316(b)(2)], “ammunition” includes, but is not limited
36 to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile
37 capable of being fired from a firearm with a deadly consequence.

38 **Comment.** Subdivision (a) of Section 16150 continues the second sentence of former Section
39 12316(a)(1)(b) without substantive change.

40 Subdivision (b) continues former Section 12316(b)(2) without substantive change.

1 **§ 16160. “Antique cannon”**

2 16160. As used in this part, “antique cannon” means any cannon manufactured
3 before January 1, 1899, which has been rendered incapable of firing or for which
4 ammunition is no longer manufactured in the United States and is not readily
5 available in the ordinary channels of commercial trade.

6 **Comment.** Section 16160 continues the second sentence of former Section 12301(a)(3)
7 without substantive change.

8 **§ 16170. “Antique firearm”**

9 16170. (a) As used in Sections 16202 and 16110, “antique firearm” means any
10 firearm manufactured before January 1, 1899.

11 (b) As used in [Sections 12078(p)(6)(B), 12085(d)(3), 12088.8(a), 12801(b)],
12 and 16520, “antique firearm” has the same meaning as in Section 921(a)(16) of
13 Title 18 of the United States Code.

14 (c) As used in Section 17700, “antique firearm” means either of the following:

15 (1) Any firearm not designed or redesigned for using rimfire or conventional
16 center fire ignition with fixed ammunition and manufactured in or before 1898.
17 This includes any matchlock, flintlock, percussion cap, or similar type of ignition
18 system or replica thereof, whether actually manufactured before or after the year
19 1898.

20 (2) Any firearm using fixed ammunition manufactured in or before 1898, for
21 which ammunition is no longer manufactured in the United States and is not
22 readily available in the ordinary channels of commercial trade.

23 **Comment.** Subdivision (a) of Section 16170 continues former Section 12276.1(d)(3) and
24 former Section 12278(d) without substantive change.

25 Subdivision (b) continues without substantive change the definition of “antique firearm” that
26 was used in former Sections 12001(e), 12078(p)(6)(B), 12085(d)(3), 12088.8(a), and 12801(b).

27 Subdivision (c) continues the second sentence of former Section 12020(b)(5) without
28 substantive change.

29 See Section 16520 (“firearm”).

30 **§ 16180. “Antique rifle”**

31 16180. As used in this part, “antique rifle” means a firearm conforming to the
32 definition of an “antique firearm” in Section 479.11 of Title 27 of the Code of
33 Federal Regulations.

34 **Comment.** Section 16180 continues the third sentence of former Section 12301(a)(3) without
35 substantive change.

36 See Section 16520 (“firearm”).

37 **§ 16190. “Application to purchase”**

38 16190. As used in [Section 12071 or 12072], “application to purchase” means
39 either of the following:

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

1 (b) The initial completion and transmission to the Department of Justice of the
2 record of electronic or telephonic transfer by the dealer on the purchaser,
3 transferee, or person being loaned a firearm, as required by [subdivision (c) of
4 Section 12076].

5 **Comment.** Section 16190 continues former Section 12001(i) without substantive change.
6 See Section 16520 (“firearm”).

7 **§ 16200. “Assault weapon”**

8 *16200. As used in [Sections 12011(a), 12072], 16110, 16780, and 17000 and in*
9 *[Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4], “assault*
10 *weapon” means the following designated semiautomatic firearms:*

11 (a) *All of the following specified rifles:*

12 (1) *All AK series including, but not limited to, the models identified as follows:*

13 (A) *Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.*

14 (B) *Norinco 56, 56S, 84S, and 86S.*

15 (C) *Poly Technologies AKS and AK47.*

16 (D) *MAADI AK47 and ARM.*

17 (2) *UZI and Galil.*

18 (3) *Beretta AR-70.*

19 (4) *CETME Sporter.*

20 (5) *Colt AR-15 series.*

21 (6) *Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.*

22 (7) *Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.*

23 (8) *MAS 223.*

24 (9) *HK-91, HK-93, HK-94, and HK-PSG-1.*

25 (10) *The following MAC types:*

26 (A) *RPB Industries Inc. sM10 and sM11.*

27 (B) *SWD Incorporated M11.*

28 (11) *SKS with detachable magazine.*

29 (12) *SIG AMT, PE-57, SG 550, and SG 551.*

30 (13) *Springfield Armory BM59 and SAR-48.*

31 (14) *Sterling MK-6.*

32 (15) *Steyer AUG.*

33 (16) *Valmet M62S, M71S, and M78S.*

34 (17) *Armalite AR-180.*

35 (18) *Bushmaster Assault Rifle.*

36 (19) *Calico M-900.*

37 (20) *J&R ENG M-68.*

38 (21) *Weaver Arms Nighthawk.*

39 (b) *All of the following specified pistols:*

40 (1) *UZI.*

41 (2) *Encom MP-9 and MP-45.*

42 (3) *The following MAC types:*

43 (A) *RPB Industries Inc. sM10 and sM11.*

- 1 (B) SWD Incorporated M-11.
- 2 (C) Advance Armament Inc. M-11.
- 3 (D) Military Armament Corp. Ingram M-11.
- 4 (4) Intratec TEC-9.
- 5 (5) Sites Spectre.
- 6 (6) Sterling MK-7.
- 7 (7) Calico M-950.
- 8 (8) Bushmaster Pistol.

9 (c) All of the following specified shotguns:

- 10 (1) Franchi SPAS 12 and LAW 12.
- 11 (2) Striker 12.
- 12 (3) The Streetsweeper type S/S Inc. SS/12.

13 (d) Any firearm declared by the court pursuant to [Section 12276.5] to be an
14 assault weapon that is specified as an assault weapon in a list promulgated
15 pursuant to [Section 12276.5].

16 (e) This section is declaratory of existing law and a clarification of the law and
17 the Legislature's intent which bans the weapons enumerated in this section, the
18 weapons included in the list promulgated by the Attorney General pursuant to
19 [Section 12276.5], and any other models that are only variations of those weapons
20 with minor differences, regardless of the manufacturer. The Legislature has
21 defined assault weapons as the types, series, and models listed in this section
22 because it was the most effective way to identify and restrict a specific class of
23 semiautomatic weapons.

24 (f) As used in this section, "series" includes all other models that are only
25 variations, with minor differences, of those models listed in subdivision (a),
26 regardless of the manufacturer.

27 **Comment.** Subdivisions (a)-(d) and the introductory clause of Section 16200 continue former
28 Section 12276(a)-(d) and its introductory clause without substantive change.

29 Subdivision (e) continues former Section 12276(f) without substantive change.

30 Subdivision (f) continues former Section 12276(e) without substantive change.

31 See Sections 16201 (further clarification of "assault weapon"), 16202 (exemptions from
32 definition of "assault weapon").

33 **Staff Note.** Proposed Section 16200 has been previously presented. See Memorandum 2008-
34 17, Attachment pp. 4-6; Memorandum 2007-33, Attachment pp. 6-8. We have revised the
35 provision consistent with the discussion of "series" in this memorandum.

36 **§ 16201. Further clarification of "assault weapon"**

37 16201. (a) Notwithstanding Section 16200, "assault weapon" also means any of
38 the following:

39 (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable
40 magazine and any one of the following:

41 (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

42 (B) A thumbhole stock.

43 (C) A folding or telescoping stock.

1 (D) A grenade launcher or flare launcher.

2 (E) A flash suppressor.

3 (F) A forward pistol grip.

4 (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity
5 to accept more than 10 rounds.

6 (3) A semiautomatic, centerfire rifle that has an overall length of less than 30
7 inches.

8 (4) A semiautomatic pistol that has the capacity to accept a detachable magazine
9 and any one of the following:

10 (A) A threaded barrel, capable of accepting a flash suppressor, forward
11 handgrip, or silencer.

12 (B) A second handgrip.

13 (C) A shroud that is attached to, or partially or completely encircles, the barrel
14 that allows the bearer to fire the weapon without burning the bearer's hand, except
15 a slide that encloses the barrel.

16 (D) The capacity to accept a detachable magazine at some location outside of
17 the pistol grip.

18 (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept
19 more than 10 rounds.

20 (6) A semiautomatic shotgun that has both of the following:

21 (A) A folding or telescoping stock.

22 (B) A pistol grip that protrudes conspicuously beneath the action of the weapon,
23 thumbhole stock, or vertical handgrip.

24 (7) A semiautomatic shotgun that has the ability to accept a detachable
25 magazine.

26 (8) Any shotgun with a revolving cylinder.

27 **Comment.** Section 16201 continues former Section 12276.1(a) without substantive change.

28 See Sections 16200 ("assault weapon"), 16202 (exemptions from definition of "assault
29 weapon"), 16890 ("magazine").

30 **§ 16202. Exemptions from definition of "assault weapon"**

31 16202. (a) The Legislature finds a significant public purpose in exempting from
32 the definition of "assault weapon" pistols that are designed expressly for use in
33 Olympic target shooting events. Therefore, those pistols that are sanctioned by the
34 International Olympic Committee and by USA Shooting, the national governing
35 body for international shooting competition in the United States, and that were
36 used for Olympic target shooting purposes as of January 1, 2001, and that would
37 otherwise fall within the definition of "assault weapon" pursuant to Sections
38 16200 and 16201 are exempt, as provided in subdivision (b).

39 (b) "Assault weapon" does not include either of the following:

40 (1) Any antique firearm.

41 (2) Any of the following pistols, because they are consistent with
42 the significant public purpose expressed in subdivision (a):

1	MANUFACTURER	MODEL	CALIBER
2	BENELLI	MP90	.22LR
3	BENELLI	MP90	.32 S&W LONG
4	BENELLI	MP95	.22LR
5	BENELLI	MP95	.32 S&W LONG
6	HAMMERLI	280	.22LR
7	HAMMERLI	280	.32 S&W LONG
8	HAMMERLI	SP20	.22LR
9	HAMMERLI	SP20	.32 S&W LONG
10	PARDINI	GPO	.22 SHORT
11	PARDINI	GP-SCHUMANN	.22 SHORT
12	PARDINI	HP	.32 S&W LONG
13	PARDINI	MP	.32 S&W LONG
14	PARDINI	SP	.22LR
15	PARDINI	SPE	.22LR
16	WALTHER	GSP	.22LR
17	WALTHER	GSP	.32 S&W LONG
18	WALTHER	OSP	.22 SHORT
19	WALTHER	OSP-2000	.22 SHORT

20 (3) The Department of Justice shall create a program that is consistent with the
21 purposes stated in subdivision (a) to exempt new models of competitive pistols
22 that would otherwise fall within the definition of “assault weapon” pursuant to
23 Sections 16200 and 16201 from being classified as an assault weapon. The exempt
24 competitive pistols may be based on recommendations by USA Shooting
25 consistent with the regulations contained in the USA Shooting Official Rules or
26 may be based on the recommendation or rules of any other organization that the
27 department deems relevant.

28 **Comment.** Subdivision (a) of Section 16202 continues former Section 12276.1(b) without
29 substantive change.

30 Subdivision (b) continues former Section 12276.1(c) without substantive change.

31 See Sections 16200 (“assault weapon”), 16201 (further clarification of “assault weapon”).

32 **§ 16220. “Ballistic knife”**

33 16220. As used in this part, “ballistic knife” means a device that propels a
34 knifelike blade as a projectile by means of a coil spring, elastic material, or
35 compressed gas. Ballistic knife does not include any device which propels an
36 arrow or a bolt by means of any common bow, compound bow, crossbow, or
37 underwater speargun.

38 **Comment.** Section 16220 continues former Section 12020(c)(8) without substantive change.

1 **§ 16230. “Ballistics identification system”**

2 16230. As used in this part, “ballistics identification system” includes, but is not
3 limited to, any automated image analysis system that is capable of storing firearm
4 ballistic markings and tracing those markings to the firearm that produced them.

5 **Comment.** Section 16230 continues former Section 12072.5(a) without substantive change.

6 **§ 16240. “Basic firearms safety certificate”**

7 16240. As used in this part, “basic firearms safety certificate” means a certificate
8 issued by the Department of Justice pursuant to [Article 8 (commencing with
9 Section 12800) of Chapter 6 of Title 2 of Part 4], before January 1, 2003.

10 **Comment.** Section 16240 continues former Section 12001(p) without substantive change.

11 **§ 16250. “BB device”**

12 16250. As used in this part, “BB device” means any instrument that expels a
13 projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force
14 of air pressure, gas pressure, or spring action, or any spot marker gun.

15 **Comment.** Section 16250 continues former Sections 12001(g) and 12550(a) without
16 substantive change.

17 **§ 16260. “Belt buckle knife”**

18 16260. As used in this part, “belt buckle knife” is a knife which is made an
19 integral part of a belt buckle and consists of a blade with a length of at least 2-1/2
20 inches.

21 **Comment.** Section 16260 continues former Section 12020(c)(13) without substantive change.

22 **§ 16270. “Blowgun”**

23 16270. As used in this part, “blowgun” means a hollow tube designed and
24 intended to be used as a tube through which a dart is propelled by the force of the
25 breath of the user.

26 **Comment.** Section 16270 continues former Section 12580 without substantive change.

27 **§ 16280. “Blowgun ammunition”**

28 16280. As used in this part, “blowgun ammunition” means a dart designed and
29 intended for use in a blowgun.

30 **Comment.** Section 16280 continues former Section 12581 without substantive change.
31 See Section 16270 (“blowgun”).

32 **§ 16290. “Body vest” or “body shield”**

33 16290. As used in this part, “body vest” or “body shield” means any bullet-
34 resistant material intended to provide ballistic and trauma protection for the wearer
35 or holder.

36 **Comment.** Section 16290 continues former Section 12323(c) without substantive change.

1 **§ 16300. “Bona fide evidence of majority and identity”**

2 16300. As used in this part, “bona fide evidence of majority and identity” means
3 a document issued by a federal, state, county, or municipal government, or
4 subdivision or agency thereof, including, but not limited to, a motor vehicle
5 operator’s license, California state identification card, identification card issued to
6 a member of the armed forces, or other form of identification that bears the name,
7 date of birth, description, and picture of the person.

8 **Comment.** Section 16300 continues the second sentence of former Section 12316(a)(2)
9 without substantive change.

10 **§ 16310. “Boobytrap”**

11 16310. As used in this part, “boobytrap” means any concealed or camouflaged
12 device designed to cause great bodily injury when triggered by an action of any
13 unsuspecting person coming across the device. Boobytraps may include, but are
14 not limited to, guns, ammunition, or explosive devices attached to trip wires or
15 other triggering mechanisms, sharpened stakes, and lines or wire with hooks
16 attached.

17 **Comment.** Section 16310 continues former Section 12355(c) without substantive change.

18 **§ 16320. “Camouflaging firearm container”**

19 16320. (a) As used in this part, “camouflaging firearm container” means a
20 container that meets all of the following criteria:

21 (1) It is designed and intended to enclose a firearm.

22 (2) It is designed and intended to allow the firing of the enclosed firearm by
23 external controls while the firearm is in the container.

24 (3) It is not readily recognizable as containing a firearm.

25 (b) “Camouflaging firearm container” does not include any camouflaging
26 covering used while engaged in lawful hunting or while going to or returning from
27 a lawful hunting expedition.

28 **Comment.** Section 16320 continues former Section 12020(c)(9) without substantive change.

29 See Section 16520 (“firearm”).

30 **§ 16330. “Cane gun”**

31 16330. As used in this part, “cane gun” means any firearm mounted or enclosed
32 in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being
33 used as, an aid in walking, if the firearm may be fired while mounted or enclosed
34 therein.

35 **Comment.** Section 16330 continues former Section 12020(c)(5) without substantive change.

36 See Section 16520 (“firearm”).

37 **§ 16340. “Cane sword”**

38 16340. As used in this part, “cane sword” means a cane, swagger stick, stick,
39 staff, rod, pole, umbrella, or similar device, having concealed within it a blade that
40 may be used as a sword or stiletto.

1 **Comment.** Section 16340 continues former Section 12020(c)(15) without substantive change.

2 **§ 16350. “Capacity to accept more than 10 rounds”**

3 16350. As used in Section 16201, “capacity to accept more than 10 rounds”
4 means capable of accommodating more than 10 rounds. The term does not apply
5 to a feeding device that has been permanently altered so that it cannot
6 accommodate more than 10 rounds.

7 **Comment.** Section 16350 continues former Section 12276.1(d)(2) without substantive change.

8 **§ 16360. “CCW”**

9 16360. As used in this part, “CCW” means “carry concealed weapons.”

10 **Comment.** Section 16360 continues former Section 12027(a)(1)(E) without substantive
11 change.

12 **§ 16370. “Certified instructor” or “DOJ Certified Instructor”**

13 16370. As used in [Sections 12800-12809], “certified instructor” or “DOJ
14 Certified Instructor” means a person designated as a handgun safety instructor by
15 the Department of Justice pursuant to [subdivision (d) of Section 12804].

16 **Comment.** Section 16370 continues former Section 12801(a)(2) without substantive change.

17 **§ 16380. “Chamber load indicator”**

18 16380. As used in this part, “chamber load indicator” means a device that
19 plainly indicates that a cartridge is in the firing chamber. A device satisfies this
20 definition if it is readily visible, has incorporated or adjacent explanatory text or
21 graphics, or both, and is designed and intended to indicate to a reasonably
22 foreseeable adult user of the pistol, without requiring the user to refer to a user’s
23 manual or any other resource other than the pistol itself, whether a cartridge is in
24 the firing chamber.

25 **Comment.** Section 16380 continues former Section 12126(c) without substantive change.

26 **§ 16400. “Clear evidence of the person’s identity and age”**

27 16400. As used in this part, “clear evidence of the person’s identity and age”
28 means either of the following:

29 (a) A valid California driver’s license.

30 (b) A valid California identification card issued by the Department of Motor
31 Vehicles.

32 **Comment.** Section 16400 continues former Section 12071(c)(1) without substantive change.

33 **§ 16410. “Consultant-evaluator”**

34 16410. As used in this part, “consultant-evaluator” means a consultant or
35 evaluator who, in the course of that person’s profession is loaned firearms from a
36 person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18
37 of the United States Code and the regulations issued pursuant thereto, for research

1 or evaluation, and has a current certificate of eligibility issued pursuant to [Section
2 12071].

3 **Comment.** Section 16410 continues former Section 12001(s) without substantive change.

4 **§ 16420. “Dagger” or “dirk”**

5 16420. As used in this part, “dagger” or “dirk” means a knife or other instrument
6 with or without a handguard that is capable of ready use as a stabbing weapon that
7 may inflict great bodily injury or death. A nonlocking folding knife, a folding
8 knife that is not prohibited by Sections 17235 and 21510, or a pocketknife is
9 capable of ready use as a stabbing weapon that may inflict great bodily injury or
10 death only if the blade of the knife is exposed and locked into position.

11 **Comment.** Section 16420 continues former Section 12020(c)(24) without substantive change.

12 **§ 16430. “Deadly weapon”**

13 16430. As used in Division 4 (commencing with Section 18250) of Title 2,
14 “deadly weapon” means any weapon, the possession or concealed carrying of
15 which is prohibited by any provision listed in Section 16590.

16 **Comment.** Section 16430 continues former Section 12028.5(a)(3) without substantive change.

17 **§ 16440. “Dealer,” “licensee,” or “person licensed pursuant to [Section 12071]”**

18 16440. (a) As used in [Sections 12000-12101, 12804, and 12809], “dealer,”
19 “licensee,” or “person licensed pursuant to [Section 12071]” means a person who
20 has all of the following:

21 (1) A valid federal firearms license.

22 (2) Any regulatory or business license, or licenses, required by local
23 government.

24 (3) A valid seller’s permit issued by the State Board of Equalization.

25 (4) A certificate of eligibility issued by the Department of Justice pursuant to
26 [Section 12071(a)(4)].

27 (5) A license issued in the format prescribed by [Section 12071(a)(6)].

28 (6) Is among those recorded in the centralized list specified in [Section
29 12071(e)].

30 (b) As used in [Section 12086], “licensee” means a person, firm, or corporation
31 that satisfies both of the following:

32 (1) Has a license issued pursuant to [Section 12086(b)(2)].

33 (2) Is among those recorded in the centralized list specified in [Section
34 12086(f)].

35 **Comment.** Subdivision (a) of Section 16440 continues former Section 12071(a)(1) without
36 substantive change.

37 Subdivision (b) continues former Section 12086(a)(1) without substantive change.

38 See also Section 16790 (“licensed gun dealer”).

1 § 16450. “Department”

2 16450. As used in [Sections 12086 and 12800-12809], “department” means the
3 Department of Justice.

4 **Comment.** Section 16450 continues former Sections 12086(a)(2) and 12801(a)(1) without
5 substantive change.

6 § 16460. “Destructive device”

7 16460. (a) As used in [Sections 12030], 16510, and 16780, and in Chapter 1
8 (commencing with Section 18710) of Division 5 of Title 2, “destructive device”
9 includes any of the following weapons:

10 (1) Any projectile containing any explosive or incendiary material or any other
11 chemical substance, including, but not limited to, that which is commonly known
12 as tracer or incendiary ammunition, except tracer ammunition manufactured for
13 use in shotguns.

14 (2) Any bomb, grenade, explosive missile, or similar device or any launching
15 device therefor.

16 (3) Any weapon of a caliber greater than 0.60 caliber which fires fixed
17 ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled
18 bore) conforming to the definition of a “destructive device” found in subsection
19 (b) of Section 479.11 of Title 27 of the Code of Federal Regulations, shotgun
20 ammunition (single projectile or shot), antique rifle, or an antique cannon.

21 (4) Any rocket, rocket-propelled projectile, or similar device of a diameter
22 greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-
23 propelled projectile, or similar device containing any explosive or incendiary
24 material or any other chemical substance, other than the propellant for that device,
25 except those devices as are designed primarily for emergency or distress signaling
26 purposes.

27 (5) Any breakable container that contains a flammable liquid with a flashpoint
28 of 150 degrees Fahrenheit or less and has a wick or similar device capable of
29 being ignited, other than a device which is commercially manufactured primarily
30 for the purpose of illumination.

31 (6) Any sealed device containing dry ice (CO₂) or other chemically reactive
32 substances assembled for the purpose of causing an explosion by a chemical
33 reaction.

34 (b) A bullet containing or carrying an explosive agent is not a destructive device
35 as that term is used in subdivision (a).

36 **Comment.** Subdivision (a) of Section 16460 continues former Section 12301(a) without
37 substantive change.

38 Subdivision (b) continues the second sentence of the second paragraph of former Section
39 12020(a)(4) without substantive change.

40 See Sections 16160 (“antique cannon”), 16180 (“antique rifle”).

41 § 16470. “Dirk”

42 16470. Use of the term “dirk” is governed by Section 16420.

1 **Comment.** Section 16470 is new. It is intended to help persons locate the definition of “dirk,”
2 which is the same as the definition of “dagger.”

3 **§ 16480. “DOJ Certified Instructor”**

4 16480. Use of the term “DOJ Certified Instructor” is governed by Section
5 16370.

6 **Comment.** Section 16480 is new. It is intended to help persons locate the definition of “DOJ
7 Certified Instructor,” which is the same as the definition of “certified instructor.”

8 **§ 16490. “Domestic violence”**

9 16490. As used in this part, “domestic violence” means abuse perpetrated
10 against any of the following persons:

11 (a) A spouse or former spouse.

12 (b) A cohabitant or former cohabitant, as defined in Section 6209 of the Family
13 Code.

14 (c) A person with whom the respondent is having or has had a dating or
15 engagement relationship.

16 (d) A person with whom the respondent has had a child, where the presumption
17 applies that the male parent is the father of the child of the female parent under the
18 Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of
19 the Family Code).

20 (e) A child of a party or a child who is the subject of an action under the
21 Uniform Parentage Act, where the presumption applies that the male parent is the
22 father of the child to be protected.

23 (f) Any other person related by consanguinity or affinity within the second
24 degree.

25 **Comment.** Section 16490 continues former Section 12028.5(a)(2) without substantive change.

26 **§ 16500. “Drop safety requirement for handguns”**

27 16500. As used in this part, the “drop safety requirement for handguns” means
28 that at the conclusion of the firing requirements for handguns described in [Section
29 12127], the same certified independent testing laboratory shall subject the same
30 three handguns of the make and model for which certification is sought, to the
31 following test:

32 (a) A primed case (no powder or projectile) shall be inserted into the chamber.
33 For a pistol, the slide shall be released, allowing it to move forward under the
34 impetus of the recoil spring, and an empty magazine shall be inserted. For both a
35 pistol and a revolver, the weapon shall be placed in a drop fixture capable of
36 dropping the pistol from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the
37 largest side of a slab of solid concrete having minimum dimensions of 7.5 x 15 x
38 15 cm (3 x 6 x 6 in.). The drop distance shall be measured from the lowermost
39 portion of the weapon to the top surface of the slab. The weapon shall be dropped
40 from a fixture and not from the hand. The weapon shall be dropped in the
41 condition that it would be in if it were dropped from a hand (cocked with no

1 manual safety applied). If the design of a pistol is such that upon leaving the hand
2 a “safety” is automatically applied by the pistol, this feature shall not be defeated.
3 An approved drop fixture is a short piece of string with the weapon attached at one
4 end and the other end held in an air vise until the drop is initiated.

5 (b) The following six drops shall be performed:

6 (1) Normal firing position with barrel horizontal.

7 (2) Upside down with barrel horizontal.

8 (3) On grip with barrel vertical.

9 (4) On muzzle with barrel vertical.

10 (5) On either side with barrel horizontal.

11 (6) If there is an exposed hammer or striker, on the rearmost point of that device,
12 otherwise on the rearmost point of the weapon.

13 (c) The primer shall be examined for indentations after each drop. If
14 indentations are present, a fresh primed case shall be used for the next drop.

15 (d) The handgun shall pass this test if each of the three test guns does not fire the
16 primer.

17 **Comment.** Section 16500 continues former Section 12128 without substantive change.

18 **§ 16510. “Explosive”**

19 16510. As used in Section 16460 and Chapter 1 (commencing with Section
20 18710) of Division 5 of Title 2, “explosive” means any substance, or combination
21 of substances, the primary or common purpose of which is detonation or rapid
22 combustion, and which is capable of a relatively instantaneous or rapid release of
23 gas and heat, or any substance, the primary purpose of which, when combined
24 with others, is to form a substance capable of a relatively instantaneous or rapid
25 release of gas and heat. “Explosive” includes, but is not limited to, any explosive
26 as defined in Section 841 of Title 18 of the United States Code and published
27 pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations, and any
28 of the following:

29 (a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black
30 powder, smokeless powder, propellant explosives, detonating primers, blasting
31 caps, or commercial boosters.

32 (b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as
33 classified by the United States Department of Transportation.

34 (c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5
35 explosives by the United States Department of Transportation.

36 (d) Any material designated as an explosive by the State Fire Marshal. The
37 designation shall be made pursuant to the classification standards established by
38 the United States Department of Transportation. The State Fire Marshal shall
39 adopt regulations in accordance with the Government Code to establish procedures
40 for the classification and designation of explosive materials or explosive devices
41 that are not under the jurisdiction of the United States Department of
42 Transportation pursuant to provisions of Section 841 of Title 18 of the United

1 States Code and published pursuant to Section 555.23 of Title 27 of the Code of
2 Federal Regulations that define explosives.

3 (e) Certain division 1.4 explosives as designated by the United States
4 Department of Transportation when listed in regulations adopted by the State Fire
5 Marshal.

6 (f) As used in Section 16460 and Chapter 1 (commencing with Section 18710)
7 of Division 5 of Title 2, “explosive” does not include any destructive device, nor
8 does it include ammunition or small arms primers manufactured for use in
9 shotguns, rifles, and pistols.

10 **Comment.** Section 16510 continues former Section 12301(b) without substantive change. To
11 make the provision more easily understandable, the definition of “explosive” in Health and Safety
12 Code Section 12000 is repeated in Section 16510, rather than incorporated by reference as it was
13 in the past. Case law construing the definition in Health and Safety Code Section 12000 is
14 relevant in construing Section 16510.

15 See Section 16460 (“destructive device”).

16 **§ 16520. “Firearm”**

17 *16520. (a) As used in this part, “firearm” means any device, designed to be*
18 *used as a weapon, from which is expelled through a barrel, a projectile by the*
19 *force of any explosion or other form of combustion.*

20 *(b) As used in [Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078,*
21 *12101, and 12801 of this code], and Sections 8100, 8101, and 8103 of the Welfare*
22 *and Institutions Code, “firearm” includes the frame or receiver of the weapon.*

23 *(c) As used in [Sections 12025 and 12031], “firearm” also includes any rocket,*
24 *rocket propelled projectile launcher, or similar device containing any explosive or*
25 *incendiary material whether or not the device is designed for emergency or*
26 *distress signaling purposes.*

27 *(d) As used in [Sections 12070, 12071, and paragraph (8) of subdivision (a),*
28 *and subdivisions (b), (c), (d), and (f) of Section 12072], “firearm” does not*
29 *include an unloaded antique firearm.*

30 *(e) As used in [Section 12030], “firearm” does not include a destructive device.*

31 *(f) As used in Sections 17280 and [12020(c)(22)(C), 2d ¶], “firearm” has the*
32 *same meaning as in Section 922 of Title 18 of the United States Code.*

33 **Comment.** *Subdivision (a) of Section 16520 continues former Section 12001(b) without*
34 *substantive change, for purposes of “Part 6. Control of Deadly Weapons.” See also Section*
35 *_____, which continues former Section 12001(b) without substantive change, for purposes of*
36 *“Title 2. Sentencing Enhancements” of “Part 4. Prevention of Crimes and Apprehension of*
37 *Criminals.”*

38 *Subdivision (b) continues former Section 12001(c) without substantive change.*

39 *Subdivision (c) continues former Section 12001(d) without substantive change.*

40 *Subdivision (d) continues former Section 12001(e) without substantive change. See Section*
41 *16710 (“antique firearm”).*

42 *Subdivision (e) continues the fourth sentence of former Section 12030(d) without substantive*
43 *change. See Section 16460 (“destructive device”).*

44 *With respect to the definition of “firearm,” subdivision (f) continues the first paragraph of*
45 *former Section 12020(c)(22)(C) without substantive change.*

1 **☞ Staff Note.** Proposed Section 16520 has been previously presented. See Memorandum 2007-
2 20, Attachment pp. 2-3; Memorandum 2007-33, Attachment pp. 27-28; Memorandum 2008-17,
3 Attachment pp. 16-17.

4 We have revised subdivision (d), which previously referred to “an unloaded firearm that is
5 defined as an ‘antique firearm’ in Section 921(a)(16) of Title 18 of the United States Code.” We
6 have replaced that reference with “an unloaded antique firearm,” and included a reference to the
7 definition of “antique firearm” in the Comment, which also states that “Subdivision (d) continues
8 former Section 12001(e) without substantive change.”

9 We chose this approach because it would further the Legislature’s directive to “[a]void
10 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope
11 of criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give
12 great weight to the Commission’s comments, we think this would be sufficient to preserve the
13 substance of Section 12001(e). See 2006-2007 Annual Report, 36 Cal. L. Revision Comm’n
14 Reports 1, 18-24 (2006).

15 **§ 16530. “Firearm capable of being concealed upon the person,” “pistol,” and “revolver”**

16 16530. (a) As used in this part, the terms “firearm capable of being concealed
17 upon the person,” “pistol,” and “revolver” apply to and include any device
18 designed to be used as a weapon, from which is expelled a projectile by the force
19 of any explosion, or other form of combustion, and that has a barrel less than 16
20 inches in length. These terms also include any device that has a barrel 16 inches or
21 more in length which is designed to be interchanged with a barrel less than 16
22 inches in length.

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

26 **Comment.** Subdivision (a) of Section 16530 continues former Section 12001(a)(1) without
27 substantive change.

28 With respect to a “firearm capable of being concealed upon the person,” “pistol,” and
29 “revolver,” subdivision (b) continues former Section 12001(f) without substantive change. See
30 also Section 16640(b), which continues former Section 12001(f) with respect to a “handgun.”

31 See Sections 16520 (“firearm”), 17170 (“short-barreled rifle”), 17180 (“short-barreled
32 shotgun”). See also Section 16640 (“handgun” means “any pistol, revolver, or firearm capable of
33 being concealed upon the person”).

34 **§ 16540. “Firearm safety device”**

35 16540. As used in [Sections 12087-12088.9], “firearm safety device” means a
36 device other than a gun safe that locks and is designed to prevent children and
37 unauthorized users from firing a firearm. The device may be installed on a firearm,
38 be incorporated into the design of the firearm, or prevent access to the firearm.

39 **Comment.** Section 16540 continues former Section 12087.6(a) without substantive change.

40 See Sections 16520 (“firearm”), 16610 (“gun safe”).

41 **§ 16550. “Firearm transaction record”**

42 16550. As used in this part, “firearm transaction record” is a record containing
43 the same information referred to in subdivision (a) of Section 478.124, Section
44 478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of
45 Federal Regulations.

1 **Comment.** Section 16550 continues former Section 12071(c)(4)(A) without substantive
2 change.

3 **§ 16560. “Firing requirement for handguns”**

4 16560. (a) As used in this part, “firing requirement for handguns” means a test
5 in which the manufacturer provides three handguns of the make and model for
6 which certification is sought to an independent testing laboratory certified by the
7 Attorney General pursuant to [Section 12130]. These handguns may not be refined
8 or modified in any way from those that would be made available for retail sale if
9 certification is granted. The magazines of a tested pistol shall be identical to those
10 that would be provided with the pistol to a retail customer.

11 (b) The test shall be conducted as follows:

12 (1) The laboratory shall fire 600 rounds from each gun, stopping after each
13 series of 50 rounds has been fired for 5 to 10 minutes to allow the weapon to cool,
14 stopping after each series of 100 rounds has been fired to tighten any loose screws
15 and clean the gun in accordance with the manufacturer’s instructions, and
16 stopping as needed to refill the empty magazine or cylinder to capacity before
17 continuing.

18 (2) The ammunition used shall be of the type recommended by the handgun
19 manufacturer in the user manual, or if none is recommended, any standard
20 ammunition of the correct caliber in new condition that is commercially available.

21 (c) A handgun shall pass this test if each of the three test guns meets both of the
22 following:

23 (1) Fires the first 20 rounds without a malfunction that is not due to ammunition
24 that fails to detonate.

25 (2) Fires the full 600 rounds with no more than six malfunctions that are not due
26 to ammunition that fails to detonate and without any crack or breakage of an
27 operating part of the handgun that increases the risk of injury to the user.

28 (d) If a pistol or revolver fails the requirements of either paragraph (1) or (2) of
29 subdivision (c) due to ammunition that fails to detonate, the pistol or revolver
30 shall be retested from the beginning of the “firing requirement for handguns” test.
31 A new model of the pistol or revolver that failed due to ammunition that fails to
32 detonate may be submitted for the test to replace the pistol or revolver that failed.

33 (e) As used in this section, “malfunction” means a failure to properly feed, fire,
34 or eject a round, or failure of a pistol to accept or eject the magazine, or failure of
35 a pistol’s slide to remain open after the magazine has been expended.

36 **Comment.** Section 16560 continues former Section 12127(a)-(c) without substantive change.

37 See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
38 “revolver”), 16640 (“handgun”).

39 **Staff Note.** Proposed Section 16560 has been previously presented. See Memorandum 2008-
40 17, Attachment pp. 18-19; Memorandum 2007-33, Attachment pp. 29-30. We have revised the
41 provision consistent with the discussion of “malfunction” in this memorandum.

1 § 16570. “Flechette dart”

2 16570. As used in this part, “flechette dart” means a dart, capable of being fired
3 from a firearm, that measures approximately one inch in length, with tail fins that
4 take up approximately five-sixteenths of an inch of the body.

5 **Comment.** Section 16570 continues former Section 12020(c)(6) without substantive change.
6 See Section 16520 (“firearm”).

7 § 16590. “Generally prohibited weapon”

8 16590. As used in this part, “generally prohibited weapon” means any of the
9 following:

10 (a) An air gauge knife, as prohibited by Section 20310.

11 (b) Ammunition that contains or consists of a flechette dart, as prohibited by
12 Section _____.

13 (c) A ballistic knife, as prohibited by Section 21110.

14 (d) A belt buckle knife, as prohibited by Section 20410.

15 (e) A bullet containing or carrying an explosive agent, as prohibited by Section
16 _____.

17 (f) A camouflaging firearm container, as prohibited by Section _____.

18 (g) A cane gun, as prohibited by Section _____.

19 (h) A cane sword, as prohibited by Section 20510.

20 (i) A concealed dagger or dirk, as prohibited by Section 21310.

21 (j) A concealed explosive substance, other than fixed ammunition, as prohibited
22 by Section 19100.

23 (k) A firearm that is not immediately recognizable as a firearm, as prohibited by
24 Section _____.

25 (l) A large-capacity magazine, as prohibited by Section _____.

26 (m) A leaded cane, as prohibited by Section 22210.

27 (n) A lipstick case knife, as prohibited by Section 20610.

28 (o) Metal knuckles, as prohibited by Section 21810.

29 (p) A metal military practice handgrenade or a metal replica handgrenade, as
30 prohibited by Section 19200.

31 (q) A multiburst trigger activator, as prohibited by Section _____.

32 (r) A nunchaku, as prohibited by Section 22010.

33 (s) A shobi-zue, as prohibited by Section 20710.

34 (t) A short-barreled rifle, as prohibited by Section _____.

35 (u) A short-barreled shotgun, as prohibited by Section _____.

36 (v) A shuriken, as prohibited by Section 22410.

37 (w) An unconventional pistol, as prohibited by Section _____.

38 (x) An undetectable firearm, as prohibited by Section _____.

39 (y) A wallet gun, as prohibited by Section _____.

40 (z) A writing pen knife, as prohibited by Section 20910.

41 (aa) A zip gun, as prohibited by Section _____.

1 (bb) An instrument or weapon of the kind commonly known as a billy, blackjack,
2 sandbag, sandclub, sap, or slungshot, as prohibited by Section 22290.

3 **Comment.** Section 16590 is new. It defines the term “generally prohibited weapon” for
4 drafting convenience. Each of the items listed in this section was formerly listed in subdivision (a)
5 of former Section 12020.

6 See Sections 16140 (“air gauge knife”), 16220 (“ballistic knife”), 16260 (“belt buckle knife”),
7 16320 (“camouflaging firearm container”), 16330 (“cane gun”), 16340 (“cane sword”), 16420
8 (“dagger or dirk”), 16510 (“explosive”), 16520 (“firearm”), 16570 (“flechette dart”), 16740
9 (“large capacity magazine”), 16760 (“leaded cane”), 16830 (“lipstick case knife”), 16920
10 (“metal knuckles”), 16930 (“multiburst trigger activator”), 16940 (“nunchaku”), 17160
11 (“shobi-zue”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17200
12 (“shuriken”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet
13 gun”), 17350 (“writing pen knife”), 17360 (“zip gun”).

14 **Staff Note.** Proposed Section 16590 has been previously presented. See Memorandum 2007-
15 19, Exhibit p. 26; Memorandum 2007-33, Attachment pp. 31-32; Memorandum 2008-17,
16 Attachment pp. 19-20. In this draft, we have added a second paragraph to the Comment, which
17 provides references to pertinent definitions. In several places in the statutory text, we have
18 replaced a cross-reference to an existing provision with a cross-reference to the corresponding
19 new provision. Aside from these revisions, we have not made any changes.

20 § 16600. “Great bodily injury”

21 16600. As used in [Section 12035], “great bodily injury” means a significant or
22 substantial physical injury.

23 **Comment.** Section 16600 continues the second paragraph of former Section 12035(a)(4)
24 without substantive change. To make the provision more easily understandable, the definition of
25 “great bodily injury” in Section 12022.7 is repeated in Section 16600, rather than incorporated by
26 reference as it was in the past. Case law construing the definition in Section 12022.7 is relevant in
27 construing Section 16600.

28 § 16610. “Gun safe”

29 16610. As used in this part, “gun safe” means a locking container that fully
30 contains and secures one or more firearms, and that meets the standards for gun
31 safes adopted pursuant to [Section 12088.2].

32 **Comment.** Section 16610 continues former Section 12087.6(b) without substantive change.
33 See Section 16520 (“firearm”).

34 § 16620. “Gun Show Trader”

35 16620. As used in this part, “Gun Show Trader” means a person described in
36 [Section 12070(b)(5)].

37 **Comment.** Section 16620 continues former Section 12070(b)(5) without substantive change.

38 § 16630. “Gunsmith”

39 16630. As used in this part, “gunsmith” means any person who is licensed as a
40 dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
41 United States Code and the regulations issued pursuant thereto, who is engaged
42 primarily in the business of repairing firearms, or making or fitting special barrels,
43 stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

1 **Comment.** Section 16630 continues former Section 12001(r) without substantive change.
2 See Section 16520 (“firearm”).

3 **§ 16640. “Handgun”**

4 16640. (a) As used in this part, “handgun” means any pistol, revolver, or firearm
5 capable of being concealed upon the person.

6 (b) Nothing shall prevent a device defined as a “handgun” from also being found
7 to be a short-barreled rifle or a short-barreled shotgun.

8 **Comment.** Subdivision (a) of Section 16640 continues former Section 12001(a)(2) without
9 substantive change. See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed
10 upon the person,” “pistol,” and “revolver”).

11 With respect to a “handgun,” subdivision (b) continues former Section 12001(f) without
12 substantive change. See also Section 16530(b), which continues former Section 12001(f) with
13 respect to a “firearm capable of being concealed upon the person,” “pistol,” and “revolver.”

14 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
15 “pistol,” and “revolver”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

16 **§ 16650. “Handgun ammunition”**

17 16650. As used in this part, “handgun ammunition” means ammunition
18 principally for use in pistols, revolvers, and other firearms capable of being
19 concealed upon the person, notwithstanding that the ammunition may also be used
20 in some rifles.

21 **Comment.** Section 16650 continues former Section 12323(a) without substantive change.

22 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
23 “pistol,” and “revolver”).

24 **§ 16660. “Handgun ammunition designed primarily to penetrate metal or armor”**

25 16660. As used in this part, “handgun ammunition designed primarily to
26 penetrate metal or armor” means any ammunition, except a shotgun shell or
27 ammunition primarily designed for use in a rifle, that is designed primarily to
28 penetrate a body vest or body shield, and has either of the following
29 characteristics:

30 (a) Has projectile or projectile core constructed entirely, excluding the presence
31 of traces of other substances, from one or a combination of tungsten alloys, steel,
32 iron, brass, beryllium copper, or depleted uranium, or any equivalent material of
33 similar density or hardness.

34 (b) Is primarily manufactured or designed, by virtue of its shape, cross-sectional
35 density, or any coating applied thereto, including, but not limited to, ammunition
36 commonly known as “KTW ammunition,” to breach or penetrate a body vest or
37 body shield when fired from a pistol, revolver, or other firearm capable of being
38 concealed upon the person.

39 **Comment.** Section 16660 continues former Section 12323(b) without substantive change.

40 See Sections 16290 (“body vest” or “body shield”), 16520 (“firearm”), 16530 (“firearm
41 capable of being concealed upon the person,” “pistol,” and “revolver”), 16650 (“handgun
42 ammunition”).

1 **§ 16670. “Handgun safety certificate”**

2 16670. As used in this part, “handgun safety certificate” means a certificate
3 issued by the Department of Justice pursuant to [Article 8 (commencing with
4 Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or
5 after January 1, 2003].

6 **Comment.** Section 16670 continues former Section 12001(q) without substantive change.
7 See Section 16640 (“handgun”).

8 **§ 16680. “Hard plastic knuckles”**

9 16680. As used in this part, “hard plastic knuckles” means any device or
10 instrument made wholly or partially of plastic that is not metal knuckles, that is
11 worn for purposes of offense or defense in or on the hand, and that either protects
12 the wearer’s hand while striking a blow or increases the force of impact from the
13 blow or injury to the individual receiving the blow. The plastic contained in the
14 device may help support the hand or fist, provide a shield to protect it, or consist
15 of projections or studs that would contact the individual receiving a blow.

16 **Comment.** Section 16680 continues the second and third sentences of former Section 12020.1
17 without substantive change.

18 See Section 16920 (“metal knuckles”).

19 **§ 16690. “Honorably retired”**

20 16690. As used in [Sections 12027 and 12031], “honorably retired” includes any
21 peace officer who has qualified for, and has accepted, a service or disability
22 retirement. As used in [Sections 12027 and 12031], “honorably retired” does not
23 include an officer who has agreed to a service retirement in lieu of termination.

24 **Comment.** Section 16690 continues the fourth and fifth sentences of former Section
25 12027(a)(1)(A) without substantive change.

26 **§ 16700. “Imitation firearm”**

27 16700. (a) As used in this part, “imitation firearm” means any BB device, toy
28 gun, replica of a firearm, or other device that is so substantially similar in
29 coloration and overall appearance to an existing firearm as to lead a reasonable
30 person to perceive that the device is a firearm.

31 (b) As used in [Section 12555], “imitation firearm” does not include any of the
32 following:

33 (1) A nonfiring collector’s replica that is historically significant, and is offered
34 for sale in conjunction with a wall plaque or presentation case.

35 (2) A BB device.

36 (3) A device where the entire exterior surface of the device is white, bright red,
37 bright orange, bright yellow, bright green, bright blue, bright pink, or bright
38 purple, either singly or as the predominant color in combination with other colors
39 in any pattern, as provided by federal regulations governing imitation firearms, or
40 where the entire device is constructed of transparent or translucent materials which

1 permits unmistakable observation of the device’s complete contents, as provided
2 by federal regulations governing imitation firearms.

3 **Comment.** Subdivision (a) of Section 16700 continues former Section 12550(c) without
4 substantive change.

5 Subdivision (b) continues former Section 12555(c) without substantive change.

6 See Sections 16250 (“BB device”), 16520 (“firearm”).

7 **§ 16720. “Immediate family member”**

8 16720. As used in this part, “immediate family member” means either of the
9 following relationships:

10 (a) Parent and child.

11 (b) Grandparent and grandchild.

12 **Comment.** Section 16720 continues former Section 12078(c)(3) without substantive change.

13 **§ 16740. “Large-capacity magazine”**

14 16740. As used in this part, “large-capacity magazine” means any ammunition
15 feeding device with the capacity to accept more than 10 rounds, but shall not be
16 construed to include any of the following:

17 (a) A feeding device that has been permanently altered so that it cannot
18 accommodate more than 10 rounds.

19 (b) A .22 caliber tube ammunition feeding device.

20 (c) A tubular magazine that is contained in a lever-action firearm.

21 **Comment.** Section 16740 continues former Sections 12020(c)(25) and 12079(b) without
22 substantive change.

23 **§ 16750. “Lawful possession of the firearm”**

24 16750. (a) As used in [Section 12025], “lawful possession of the firearm” means
25 that the person who has possession or custody of the firearm either lawfully owns
26 the firearm or has the permission of the lawful owner or a person who otherwise
27 has apparent authority to possess or have custody of the firearm. A person who
28 takes a firearm without the permission of the lawful owner or without the
29 permission of a person who has lawful custody of the firearm does not have lawful
30 possession of the firearm.

31 (b) As used in [Section 12031], “lawful possession of the firearm” means that
32 the person who has possession or custody of the firearm either lawfully acquired
33 and lawfully owns the firearm or has the permission of the lawful owner or person
34 who otherwise has apparent authority to possess or have custody of the firearm. A
35 person who takes a firearm without the permission of the lawful owner or without
36 the permission of a person who has lawful custody of the firearm does not have
37 lawful possession of the firearm.

38 **Comment.** Subdivision (a) of Section 16750 continues former Section 12025(g) without
39 substantive change.

40 Subdivision (b) continues former Section 12031(a)(3) without substantive change.

41 See Section 16520 (“firearm”).

1 § 16760. “Leaded cane”

2 16760. As used in this part, a “leaded cane” means a staff, crutch, stick, rod,
3 pole, or similar device, unnaturally weighted with lead.

4 **Comment.** Section 16760 continues former Section 12020(c)(17) without substantive change.

5 § 16770. “Less lethal ammunition”

6 16770. As used in this part, “less lethal ammunition” means any ammunition
7 that satisfies both of the following requirements:

8 (a) It is designed to be used in a less lethal weapon or any other kind of weapon
9 (including, but not limited to, a firearm, pistol, revolver, shotgun, rifle, or spring,
10 compressed air, or compressed gas weapon).

11 (b) When used in a less lethal weapon or other weapon, it is designed to
12 immobilize, incapacitate, or stun a human being through the infliction of any less
13 than lethal impairment of physical condition, function, or senses, including
14 physical pain or discomfort.

15 **Comment.** Section 16770 continues former Section 12601(c) without substantive change.

16 See Sections 16520 (“firearm”), 16780 (“less lethal weapon”), 17010 (“pistol”), 17080
17 (“revolver”).

18 § 16780. “Less lethal weapon”

19 16780. As used in this part,

20 (a) “Less lethal weapon” means any device that is designed to or that has been
21 converted to expel or propel less lethal ammunition by any action, mechanism, or
22 process for the purpose of incapacitating, immobilizing, or stunning a human
23 being through the infliction of any less than lethal impairment of physical
24 condition, function, or senses, including physical pain or discomfort. It is not
25 necessary that a weapon leave any lasting or permanent incapacitation, discomfort,
26 pain, or other injury or disability in order to qualify as a less lethal weapon.

27 (b) Less lethal weapon includes the frame or receiver of any weapon described
28 in subdivision (a), but does not include any of the following unless the part or
29 weapon has been converted as described in subdivision (a):

30 (1) Pistol, revolver, or firearm.

31 (2) Machinegun.

32 (3) Rifle or shotgun using fixed ammunition consisting of standard primer and
33 powder and not capable of being concealed upon the person.

34 (4) A pistol, rifle, or shotgun that is a firearm having a barrel less than 0.18
35 inches in diameter and that is designed to expel a projectile by any mechanical
36 means or by compressed air or gas.

37 (5) When used as designed or intended by the manufacturer, any weapon
38 commonly regarded as a toy gun, and that as such is incapable of inflicting any
39 impairment of physical condition, function, or senses.

40 (6) A destructive device.

41 (7) A tear gas weapon.

42 (8) A bow or crossbow designed to shoot arrows.

1 (9) A device commonly known as a slingshot.

2 (10) A device designed for the firing of stud cartridges, explosive rivets, or
3 similar industrial ammunition.

4 (11) A device designed for signaling, illumination, or safety.

5 (12) An assault weapon.

6 **Comment.** Section 16780 continues former Section 12601(a)-(b) without substantive change.

7 See Sections 16200 (“assault weapon”), 16201 (further clarification of “assault weapon”),
8 16202 (exemptions from definition of “assault weapon”), 16460 (“destructive device”), 16520
9 (“firearm”), 16880 (“machinegun”), 17010 (“pistol”), 17080 (“revolver”), 17250 (“tear gas
10 weapon”).

11 **§ 16790. “Licensed gun dealer”**

12 16790. As used in [Sections 12275-12290], “licensed gun dealer” means a
13 person who is licensed pursuant to [Section 12071] and who has a permit to sell
14 assault weapons or .50 BMG rifles pursuant to [Section 12287].

15 **Comment.** Section 16790 continues former Section 12290(c) without substantive change.

16 See Sections 16110 (“.50 BMG rifle”), 16200 (“assault weapon”), 16201 (further clarification
17 of “assault weapon”), 16202 (exemptions from definition of “assault weapon”).

18 See also Section 16440 (“dealer,” “licensee,” or “person licensed pursuant to [Section 12071].”

19 **§ 16800. “Licensed gun show producer”**

20 16800. As used in this part, “licensed gun show producer” means a person who
21 has been issued a certificate of eligibility by the Department of Justice pursuant to
22 [Section 12071.1(a)]. No regulations shall be required to implement this section.

23 **Comment.** Section 16800 continues former Section 12071.1(c) without substantive change.

24 **§ 16810. “Licensed premises,” “licensee’s business premises,” and “licensee’s place of
25 business”**

26 16810. As used in [Section 12071], “licensed premises,” “licensee’s business
27 premises,” or “licensee’s place of business” means the building designated in the
28 license.

29 **Comment.** Section 16810 continues former Section 12071(c)(3) without substantive change.

30 **§ 16820. “Licensee”**

31 16820. Use of the term “licensee” is governed by Section 16440.

32 **Comment.** Section 16820 is new. It is intended to help persons locate the definition of
33 “licensee,” which is the same as the definition of “dealer” for certain purposes.

34 **§ 16822. “Licensee’s business premises”**

35 16822. Use of the term “licensee’s business premises” is governed by Section
36 16810.

37 **Comment.** Section 16822 is new. It is intended to help persons locate the definition of
38 “licensee’s business premises, which is the same as the definition of “licensed premises” in
39 Section 16810.

1 § 16824. “Licensee’s place of business”

2 16824. Use of the term “licensee’s place of business” is governed by Section
3 16810.

4 **Comment.** Section 16824 is new. It is intended to help persons locate the definition of
5 “licensee’s place of business, which is the same as the definition of “licensed premises” in
6 Section 16810.

7 § 16830. “Lipstick case knife”

8 16830. As used in this part, a “lipstick case knife” means a knife enclosed within
9 and made an integral part of a lipstick case.

10 **Comment.** Section 16830 continues former Section 12020(c)(14) without substantive change.

11 § 16840. “Loaded” and “loaded firearm”

12 16840. (a) As used in [Section 12023], a firearm shall be deemed to be “loaded”
13 whenever both the firearm and the unexpended ammunition capable of being
14 discharged from the firearm are in the immediate possession of the same person.

15 (b) As used in [Sections 12025(b)(6)(A), 12031, and 12035],

16 (1) A firearm shall be deemed to be “loaded” when there is an unexpended
17 cartridge or shell, consisting of a case that holds a charge of powder and a bullet or
18 shot, in, or attached in any manner to, the firearm, including, but not limited to, in
19 the firing chamber, magazine, or clip thereof attached to the firearm.

20 (2) Notwithstanding paragraph (1), a muzzle-loader firearm shall be deemed to
21 be loaded when it is capped or primed and has a powder charge and ball or shot in
22 the barrel or cylinder.

23 **Comment.** Subdivision (a) of Section 16840 continues former Section 12001(j) without
24 substantive change.

25 Subdivision (b) continues former Sections 12031(g) and 12035(a)(2) without substantive
26 change.

27 See Section 16520 (“firearm”).

28 § 16850. “Locked container”

29 16850. As used in [Sections 12020(b)(17)(E), 12026.1, 12026.2, 12035, 12036,
30 and 12094(b)(4)(E)], “locked container” means a secure container that is fully
31 enclosed and locked by a padlock, keylock, combination lock, or similar locking
32 device. The term “locked container” does not include the utility or glove
33 compartment of a motor vehicle.

34 **Comment.** Section 16850 continues former Sections 12026.2(d), 12035(a)(5), and 12036(a)(4)
35 without substantive change. Section 16850 also continues the combined effect of subdivision (c)
36 and the last clause of paragraph (a)(1) of former Section 12026.1 without substantive change.

37 See Section 16520 (“firearm”).

38 **Staff Note.** Proposed Section 16850 has been previously presented. See Memorandum 2008-
39 17, Attachment pp. 31-32. In the Comment, we have deleted the reference to the definition of
40 “locking device.” That definition does not apply to existing Sections 12026.1 and 12026.2, the
41 only provisions that contain the language that would be continued by proposed Section 16850.
42 The other provisions that would be continued by proposed Section 16850 (existing Sections

1 12035(a)(5) and 12036(a)(4)) merely cross-refer to existing Section 12026.2. Aside from revising
2 the Comment as discussed here, we have not made any changes in proposed Section 16850.

3 **§ 16860. “Locking device” for firearm**

4 16860. As used in [Sections 12035 and 12036], “locking device” means a
5 device that is designed to prevent a firearm from functioning and, when applied to
6 the firearm, renders the firearm inoperable.

7 **Comment.** Section 16860 continues former Sections 12035(a)(1) and 12036(a)(1) without
8 substantive change.

9 See Section 16520 (“firearm”).

10 **Staff Note.** Proposed Section 16860 has been previously presented. See Memorandum 2008-
11 17, Attachment p. 32. Consistent with the discussion of “locking device” in the instant
12 memorandum, we have changed the headline from “locking device” to “‘locking device’ for
13 firearm.” Aside from this revision, we have not made any changes.

14 **§ 16870. “Long-gun safe”**

15 16870. As used in this part, “long-gun safe” means a locking container designed
16 to fully contain and secure a rifle or shotgun, which has a locking system
17 consisting of either a mechanical combination lock or an electronic combination
18 lock that has at least 1,000 possible unique combinations consisting of a minimum
19 of three numbers, letters, or symbols per combination, and is not listed on the
20 roster maintained pursuant to [Section 12088(d)].

21 **Comment.** Section 16870 continues former Section 12087.6(c) without substantive change.
22 See Sections 17090 (“rifle”), 17190 (“shotgun”).

23 **§ 16880. “Machinegun”**

24 16880. As used in this part, “machinegun” means any weapon that shoots, is
25 designed to shoot, or can readily be restored to shoot, automatically more than one
26 shot, without manual reloading, by a single function of the trigger. The term also
27 includes the frame or receiver of any such weapon, any part designed and intended
28 solely and exclusively, or combination of parts designed and intended, for use in
29 converting a weapon into a machinegun, and any combination of parts from which
30 a machinegun can be assembled if those parts are in the possession or under the
31 control of a person. The term also includes any weapon deemed by the federal
32 Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun
33 under Chapter 53 (commencing with Section 5801) of Title 26 of the United States
34 Code.

35 **Comment.** Section 16880 continues former Section 12200 without substantive change.

36 **§ 16890. “Magazine”**

37 16890. As used in Section 16201, “magazine” means any ammunition feeding
38 device.

39 **Comment.** Section 16890 continues former Section 12276.1(d)(1) without substantive change.

1 **§ 16900. “Magazine disconnect mechanism”**

2 16900. As used in this part, “magazine disconnect mechanism” means a
3 mechanism that prevents a semiautomatic pistol that has a detachable magazine
4 from operating to strike the primer of ammunition in the firing chamber when a
5 detachable magazine is not inserted in the semiautomatic pistol.

6 **Comment.** Section 16900 continues former Section 12126(d) without substantive change.

7 See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
8 “revolver”), 17140 (“semiautomatic pistol”).

9 **§ 16920. “Metal knuckles”**

10 16920. As used in this part, “metal knuckles” means any device or instrument
11 made wholly or partially of metal that is worn for purposes of offense or defense
12 in or on the hand and that either protects the wearer’s hand while striking a blow
13 or increases the force of impact from the blow or injury to the individual receiving
14 the blow. The metal contained in the device may help support the hand or fist,
15 provide a shield to protect it, or consist of projections or studs which would
16 contact the individual receiving a blow.

17 **Comment.** Section 16920 continues former Section 12020(c)(7) without substantive change.

18 **§ 16930. “Multiburst trigger activator”**

19 16930. As used in this part, a “multiburst trigger activator” means either of the
20 following:

21 (a) A device designed or redesigned to be attached to a semiautomatic firearm,
22 which allows the firearm to discharge two or more shots in a burst by activating
23 the device.

24 (b) A manual or power-driven trigger activating device constructed and designed
25 so that when attached to a semiautomatic firearm it increases the rate of fire of that
26 firearm.

27 **Comment.** Section 16930 continues former Section 12020(c)(23) without substantive change.

28 See Section 16520 (“firearm”).

29 **§ 16940. “Nunchaku”**

30 16940. As used in this part, “nunchaku” means an instrument consisting of two
31 or more sticks, clubs, bars or rods to be used as handles, connected by a rope,
32 cord, wire, or chain, in the design of a weapon used in connection with the practice
33 of a system of self-defense such as karate.

34 **Comment.** Section 16940 continues former Section 12020(c)(3) without substantive change.

35 **§ 16960. “Operation of law”**

36 16960. As used in [Section 12070], “operation of law” includes, but is not
37 limited to, any of the following:

38 (a) The executor or administrator of an estate, if the estate includes a firearm.

1 (b) A secured creditor or an agent or employee of a secured creditor when a
2 firearm is possessed as collateral for, or as a result of, a default under a security
3 agreement under the Commercial Code.

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

6 (d) A receiver performing the functions of a receiver, if the receivership estate
7 includes a firearm.

8 (e) A trustee in bankruptcy performing the duties of a trustee, if the bankruptcy
9 estate includes a firearm.

10 (f) An assignee for the benefit of creditors performing the functions of an
11 assignee, if the assignment includes a firearm.

12 (g) A transmutation of property between spouses pursuant to Section 850 of the
13 Family Code.

14 (h) A firearm received by the family of a police officer or deputy sheriff from a
15 local agency pursuant to Section 50081 of the Government Code.

16 (i) The transfer of a firearm by a law enforcement agency to the person who
17 found the firearm where the delivery is to the person as the finder of the firearm
18 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3
19 of the Civil Code.

20 **Comment.** Section 16960 continues former Section 12070(c)(2) without substantive change.

21 **§ 16965. “Passenger’s or driver’s area”**

22 *16965. As used in this part, “passenger’s or driver’s area” means that part of a*
23 *motor vehicle which is designed to carry the driver and passengers, including any*
24 *interior compartment or space therein.*

25 **Comment.** Section 16965 continues the third paragraph of former Section 653k without
26 substantive change.

27 **Staff Note.** Existing Section 653k is not located in Title 2 of Part 4, but would be included in
28 new Part 6. It defines “passenger’s or driver’s area” for purposes of “this section.” The term is
29 not used anywhere in Title 2 of Part 4.

30 *Consequently, the definition in Section 653k can be applied to the entirety of new Part 6*
31 *without effecting a substantive change. Proposed Section 17235 would therefore define*
32 *“passenger’s or driver’s area” as used “in this part.”*

33 **§ 16970. “Person”**

34 16970. As used in [Sections 12020.5 and 12275-12290], “person” means an
35 individual, partnership, corporation, limited liability company, association, or any
36 other group or entity, regardless of how it was created.

37 **Comment.** Section 16970 continues former Section 12277 without substantive change.
38 See also Section 7 (“the word ‘person’ includes a corporation as well as a natural person”).

39 **§ 16980. “Person licensed pursuant to [Section 12071]”**

40 16980. Use of the term “person licensed pursuant to [Section 12071]” is
41 governed by Section 16440.

1 **Comment.** Section 16980 is new. It is intended to help persons locate the definition of “person
2 licensed pursuant to [Section 12071],” which is the same as the definition of “dealer.”

3 **§ 16990. “Person taking title or possession of a firearm by operation of law”**

4 16990. As used in [Section 12078], the phrase “a person taking title or
5 possession of a firearm by operation of law” includes, but is not limited to, any of
6 the following instances in which an individual receives title to, or possession of, a
7 firearm:

8 (a) The executor or administrator of an estate, if the estate includes a firearm.

9 (b) A secured creditor or an agent or employee of a secured creditor when the
10 firearm is possessed as collateral for, or as a result of, a default under a security
11 agreement under the Commercial Code.

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

14 (d) A receiver performing the functions of a receiver, if the receivership estate
15 includes a firearm.

16 (e) A trustee in bankruptcy performing the duties of a trustee, if the bankruptcy
17 estate includes a firearm.

18 (f) An assignee for the benefit of creditors performing the functions of an
19 assignee, if the assignment includes a firearm.

20 (g) A transmutation of property consisting of a firearm pursuant to Section 850
21 of the Family Code.

22 (h) A firearm passing to a surviving spouse pursuant to Chapter 1 (commencing
23 with Section 13500) of Part 2 of Division 8 of the Probate Code.

24 (i) A firearm received by the family of a police officer or deputy sheriff from a
25 local agency pursuant to Section 50081 of the Government Code.

26 (j) The transfer of a firearm by a law enforcement agency to the person who
27 found the firearm where the delivery is to the person as the finder of the firearm
28 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3
29 of the Civil Code.

30 **Comment.** Section 16990 continues former Section 12078(u)(2) without substantive change.

31 **§ 17000. “Personal handgun importer”**

32 17000. (a) As used in this part, “personal handgun importer” means an
33 individual who meets all of the following criteria:

34 (1) The individual is not a person licensed pursuant to [Section 12071].

35 (2) The individual is not a licensed manufacturer of firearms pursuant to Chapter
36 44 (commencing with Section 921) of Title 18 of the United States Code.

37 (3) The individual is not a licensed importer of firearms pursuant to Chapter 44
38 (commencing with Section 921) of Title 18 of the United States Code and the
39 regulations issued pursuant thereto.

40 (4) The individual is the owner of a handgun.

41 (5) The individual acquired that handgun outside of California.

1 (6) The individual moved into this state on or after January 1, 1998, as a resident
2 of this state.

3 (7) The individual intends to possess that handgun within this state on or after
4 January 1, 1998.

5 (8) The handgun was not delivered to the individual by a person licensed
6 pursuant to [Section 12071] who delivered that firearm following the procedures
7 set forth in [Section 12071] and [subdivision (c) of Section 12072].

8 (9) The individual, while a resident of this state, had not previously reported
9 ownership of that handgun to the Department of Justice in a manner prescribed by
10 the department that included information concerning the individual and a
11 description of the firearm.

12 (10) The handgun is not a firearm that is prohibited by [subdivision (a) of
13 Section 12020].

14 (11) The handgun is not an assault weapon.

15 (12) The handgun is not a machinegun.

16 (13) The person is 18 years of age or older.

17 (b) For purposes of paragraph (6) of subdivision (a):

18 (1) Except as provided in paragraph (2), residency shall be determined in the
19 same manner as is the case for establishing residency pursuant to Section 12505 of
20 the Vehicle Code.

21 (2) In the case of a member of the Armed Forces of the United States, residency
22 shall be deemed to be established when the individual was discharged from active
23 service in this state.

24 **Comment.** Subdivision (a) of Section 17000 continues former Section 12001(n) without
25 substantive change. For guidance on what constitutes an assault weapon, see Sections 16200
26 (“assault weapon”), 16201 (further clarification of “assault weapon”), and 16202 (exemptions
27 from definition of “assault weapon”). For guidance on what constitutes a machinegun, see
28 Section 16880 (“machinegun”).

29 Subdivision (b) continues former Section 12001(o) without substantive change.

30 See Sections 16520 (“firearm”), 16640 (“handgun”).

31 **§ 17010. “Pistol”**

32 17010. Use of the term “pistol” is governed by Section 16530.

33 **Comment.** Section 17010 is new. It is intended to help persons locate key rules relating to use
34 of the term “pistol.”

35 **§ 17020. “Principal place of employment or business”**

36 17020. For purposes of this part, a city or county may be considered an
37 applicant’s “principal place of employment or business” only if the applicant is
38 physically present in the jurisdiction during a substantial part of the applicant’s
39 working hours for purposes of that employment or business.

40 **Comment.** Section 17020 continues former Section 12050(a)(3) without substantive change.

1 **§ 17030. “Prohibited area”**

2 17030. As used in this part, “prohibited area” means any place where it is
3 unlawful to discharge a weapon.

4 **Comment.** Section 17030 continues former Section 12031(f) without substantive change.

5 **§ 17070. “Responsible adult”**

6 17070. As used in this part, “responsible adult” means a person at least 21 years
7 of age who is not within a class of persons prohibited from owning or possessing a
8 firearm by virtue of [Section 12021 or 12021.1 of this code], or Section 8100 or
9 8103 of the Welfare and Institutions Code.

10 **Comment.** Section 17070 continues former Section 12101(e) without substantive change.

11 **§ 17080. “Revolver”**

12 17080. Use of the term “revolver” is governed by Section 16530.

13 **Comment.** Section 17080 is new. It is intended to help persons locate key rules relating to use
14 of the term “revolver.”

15 **§ 17090. “Rifle”**

16 17090. As used in [Sections 12001.5, 12020, 12021.5, 12029, 12072(f)(1)(A),
17 12323], 16530, 16640, and 16780, “rifle” means a weapon designed or redesigned,
18 made or remade, and intended to be fired from the shoulder and designed or
19 redesigned and made or remade to use the energy of the explosive in a fixed
20 cartridge to fire only a single projectile through a rifled bore for each single pull of
21 the trigger.

22 **Comment.** Section 17090 continues former Sections 12020(c)(20) and 12323(d) without
23 substantive change.

24 **§ 17110. “Secure facility” for firearm storage by dealer**

25 17110. As used in [Section 12071], “secure facility” means a building that meets
26 all of the following specifications:

27 (a) All perimeter doorways shall meet one of the following:

28 (1) A windowless steel security door equipped with both a dead bolt and a
29 doorknob lock.

30 (2) A windowed metal door that is equipped with both a dead bolt and a
31 doorknob lock. If the window has an opening of five inches or more measured in
32 any direction, the window shall be covered with steel bars of at least 1/2-inch
33 diameter or metal grating of at least 9 gauge affixed to the exterior or interior of
34 the door.

35 (3) A metal grate that is padlocked and affixed to the licensee’s premises
36 independent of the door and doorframe.

37 (b) All windows are covered with steel bars.

38 (c) Heating, ventilating, air-conditioning, and service openings are secured with
39 steel bars, metal grating, or an alarm system.

1 (d) Any metal grates have spaces no larger than six inches wide measured in any
2 direction.

3 (e) Any metal screens have spaces no larger than three inches wide measured in
4 any direction.

5 (f) All steel bars shall be no further than six inches apart.

6 **Comment.** Section 17110 continues former Section 12071(c)(2) without substantive change.

7 See also Sections 17111 (“secure facility” for firearm storage by manufacturer), 17112 (special
8 definition of “secure facility” for firearm storage by manufacturer producing fewer than 500
9 firearms per calendar year).

10 **§ 17111. “Secure facility” for firearm storage by manufacturer**

11 17111. Except as otherwise provided in Section 17112, as used in [Section
12 12086], “secure facility” means that the facility satisfies all of the following:

13 (a) The facility is equipped with a burglar alarm with central monitoring.

14 (b) All perimeter entries to areas in which firearms are stored other than doors,
15 including windows and skylights, are secured with steel window guards or an
16 audible, silent, or sonic alarm to detect entry.

17 (c) All perimeter doorways are designed in one of the following ways:

18 (1) A windowless steel security door equipped with both a deadbolt and a
19 doorknob lock.

20 (2) A windowed metal door equipped with both a deadbolt and a doorknob lock.
21 If the window has an opening of five inches or more measured in any direction,
22 the window is covered with steel bars of at least one-half inch diameter or metal
23 grating of at least nine gauge affixed to the exterior or interior of the door.

24 (3) A metal grate that is padlocked and affixed to the licensee’s premises
25 independent of the door and doorframe.

26 (4) Hinges and hasps attached to doors by welding, riveting, or bolting with nuts
27 on the inside of the door.

28 (5) Hinges and hasps installed so that they cannot be removed when the doors
29 are closed and locked.

30 (d) Heating, ventilating, air-conditioning, and service openings are secured with
31 steel bars, metal grating, or an alarm system.

32 (e) No perimeter metal grates are capable of being entered by any person.

33 (f) Steel bars used to satisfy the requirements of this section are not capable of
34 being entered by any person.

35 (g) Perimeter walls of rooms in which firearms are stored are constructed of
36 concrete or at least 10-gauge expanded steel wire mesh utilized along with typical
37 wood frame and drywall construction. If firearms are not stored in a vault, the
38 facility shall use an exterior security-type door along with a high security, single-
39 key deadbolt, or other door that is more secure. All firearms shall be stored in a
40 separate room away from any general living area or work area. Any door to the
41 storage facility shall be locked while unattended.

1 (h) Perimeter doorways, including the loading dock area, are locked at all times
2 when not attended by paid employees or contracted employees, including security
3 guards.

4 (i) Except when a firearm is currently being tested, any ammunition on the
5 premises is removed from all manufactured guns and stored in a separate and
6 locked room, cabinet, or box away from the storage area for the firearms.
7 Ammunition may be stored with a weapon only in a locked safe.

8 **Comment.** Section 17111 continues former Section 12086(d) without substantive change.

9 See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage
10 by dealer), 17112 (special definition of “secure facility” for firearm storage by manufacturer
11 producing fewer than 500 firearms per calendar year).

12 **§ 17112. Special definition of “secure facility” for firearm storage by manufacturer**
13 **producing fewer than 500 firearms per calendar year**

14 17112. (a) For purposes of [Section 12086], any licensed manufacturer who
15 produces fewer than 500 firearms in a calendar year within this state may maintain
16 a “secure facility” by complying with all of the requirements described in Section
17 17111, or may design a security plan that is approved by the Department of Justice
18 or the federal Bureau of Alcohol, Tobacco, and Firearms.

19 (b) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and
20 Firearms, the approved plan, along with proof of approval, shall be filed with the
21 Department of Justice and the local police department. If there is no police
22 department, the filing shall be with the county sheriff’s office.

23 (c) If a security plan is approved by the Department of Justice, the approved
24 plan, along with proof of approval, shall be filed with the local police department.
25 If there is no police department, the filing shall be with the county sheriff’s office.

26 **Comment.** Section 17112 continues former Section 12086(e) without substantive change.

27 See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage
28 by dealer), 17111 (“secure facility” for firearm storage by manufacturer).

29 **§ 17125. “Security Exemplar”**

30 17125. As used in this part, “Security Exemplar” has the same meaning as in
31 Section 922 of Title 18 of the United States Code.

32 **Comment.** With respect to the definition of “Security Exemplar,” Section 17125 continues the
33 first paragraph of former Section 12020(c)(22)(C) without substantive change.

34 **§ 17140. “Semiautomatic pistol”**

35 17140. As used in [Section 12126], “semiautomatic pistol” means a pistol with
36 an operating mode that uses the energy of the explosive in a fixed cartridge to
37 extract a fired cartridge and chamber a fresh cartridge with each single pull of the
38 trigger.

39 **Comment.** Section 17140 continues former Section 12126(e) without substantive change.

40 See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
41 “revolver”), 17010 (“pistol”).

1 § 17160. “Shobi-zue”

2 17160. As used in this part, a “shobi-zue” means a staff, crutch, stick, rod, or
3 pole concealing a knife or blade within it, which may be exposed by a flip of the
4 wrist or by a mechanical action.

5 **Comment.** Section 17160 continues former Section 12020(c)(16) without substantive change.

6 § 17170. “Short-barreled rifle”

7 17170. As used in [Sections 12001.5, 12020, 12029, 12072], 16530, and 16640,
8 “short-barreled rifle” means any of the following:

9 (a) A rifle having a barrel or barrels of less than 16 inches in length.

10 (b) A rifle with an overall length of less than 26 inches.

11 (c) Any weapon made from a rifle (whether by alteration, modification, or
12 otherwise) if that weapon, as modified, has an overall length of less than 26 inches
13 or a barrel or barrels of less than 16 inches in length.

14 (d) Any device which may be readily restored to fire a fixed cartridge which,
15 when so restored, is a device defined in subdivisions (a) to (c), inclusive.

16 (e) Any part, or combination of parts, designed and intended to convert a device
17 into a device defined in subdivisions (a) to (c), inclusive, or any combination of
18 parts from which a device defined in subdivisions (a) to (c), inclusive, may be
19 readily assembled if those parts are in the possession or under the control of the
20 same person.

21 **Comment.** Section 17170 continues former Section 12020(c)(2) without substantive change.

22 See Section 17090 (“rifle”).

23 **Staff Note.** In the draft of Title 1 attached to Memorandum 2008-17, “short-barreled rifle”
24 and “short-barreled shotgun” were misalphabetized. The staff has corrected that problem in this
25 draft and renumbered the provisions accordingly. We will also make conforming revisions as
26 needed.

27 § 17180. “Short-barreled shotgun”

28 17180. As used in [Sections 12001.5, 12020, 12029, 12072], 16530, and 16640,
29 “short-barreled shotgun” means any of the following:

30 (a) A firearm that is designed or redesigned to fire a fixed shotgun shell and has
31 a barrel or barrels of less than 18 inches in length.

32 (b) A firearm that has an overall length of less than 26 inches and that is
33 designed or redesigned to fire a fixed shotgun shell.

34 (c) Any weapon made from a shotgun (whether by alteration, modification, or
35 otherwise) if that weapon, as modified, has an overall length of less than 26 inches
36 or a barrel or barrels of less than 18 inches in length.

37 (d) Any device that may be readily restored to fire a fixed shotgun shell which,
38 when so restored, is a device defined in subdivisions (a) to (c), inclusive.

39 (e) Any part, or combination of parts, designed and intended to convert a device
40 into a device defined in subdivisions (a) to (c), inclusive, or any combination of
41 parts from which a device defined in subdivisions (a) to (c), inclusive, can be

1 readily assembled if those parts are in the possession or under the control of the
2 same person.

3 **Comment.** Section 17180 continues former Section 12020(c)(1) without substantive change.
4 See Sections 16520 (“firearm”), 17190 (“shotgun”).

5 ~~✎~~ **Staff Note.** In the draft of Title 1 attached to Memorandum 2008-17, “short-barreled rifle”
6 and “short-barreled shotgun” were misalphabetized. The staff has corrected that problem in this
7 draft and renumbered the provisions accordingly. We will also make conforming revisions as
8 needed.

9 **§ 17190. “Shotgun”**

10 17190. As used in [Sections 12001.5, 12020, 12021.5, 12029, 12072(f)(1)(A)],
11 16530, 16640, and 16870, “shotgun” means a weapon designed or redesigned,
12 made or remade, and intended to be fired from the shoulder and designed or
13 redesigned and made or remade to use the energy of the explosive in a fixed
14 shotgun shell to fire through a smooth bore either a number of projectiles (ball
15 shot) or a single projectile for each pull of the trigger.

16 **Comment.** Section 17190 continues former Section 12020(c)(21) without substantive change.

17 **§ 17200. “Shuriken”**

18 17200. As used in this part, a “shuriken” means any instrument, without handles,
19 consisting of a metal plate having three or more radiating points with one or more
20 sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond,
21 or other geometric shape, for use as a weapon for throwing.

22 **Comment.** Section 17200 continues former Section 12020(c)(11) without substantive change.

23 **§ 17210. “Silencer”**

24 17210. As used in [Sections 12500-12520], “silencer” means any device or
25 attachment of any kind designed, used, or intended for use in silencing,
26 diminishing, or muffling the report of a firearm. The term “silencer” also includes
27 any combination of parts, designed or redesigned, and intended for use in
28 assembling a silencer or fabricating a silencer and any part intended only for use in
29 such assembly or fabrication.

30 **Comment.** Section 17210 continues former Section 12500 without substantive change.

31 **§ 17220. “SKS rifle”**

32 17220. Notwithstanding paragraph (11) of subdivision (a) of Section 16200, an
33 “SKS rifle” under [Section 12881] means any SKS rifle commonly referred to as
34 an “SKS Sporter” version, manufactured to accept a detachable AK-47 magazine
35 and imported into this state and sold by a licensed gun dealer, or otherwise
36 lawfully possessed in this state by a resident of this state who is not a licensed gun
37 dealer, between January 1, 1992, and December 19, 1997.

38 **Comment.** Section 17220 continues former Section 12281(i) without substantive change.

1 § 17230. “Stun gun”

2 17230. As used in this part, “stun gun” includes any item, except a taser, used or
3 intended to be used as either an offensive or defensive weapon capable of
4 temporarily immobilizing a person by the infliction of an electrical charge.

5 **Comment.** Section 17230 continues former Section 12650 without substantive change.

6 § 17235. “Switchblade knife”

7 17235. As used in this part, “switchblade knife” means a knife having the
8 appearance of a pocketknife and includes a spring-blade knife, snap-blade knife,
9 gravity knife, or any other similar type knife, the blade or blades of which are two
10 or more inches in length and which can be released automatically by a flick of a
11 button, pressure on the handle, flip of the wrist or other mechanical device, or is
12 released by the weight of the blade or by any type of mechanism whatsoever.
13 “Switchblade knife” does not include a knife that opens with one hand utilizing
14 thumb pressure applied solely to the blade of the knife or a thumb stud attached to
15 the blade, provided that the knife has a detent or other mechanism that provides
16 resistance that must be overcome in opening the blade, or that biases the blade
17 back toward its closed position.

18 **Comment.** Section 17235 continues the second paragraph of former Section 653k without
19 substantive change.

20 **Staff Note.** Existing Section 653k is not located in Title 2 of Part 4, but would be included in
21 new Part 6. It defines “switchblade knife” for purposes of “this section.” The term is not used
22 anywhere in Title 2 of Part 4.

23 Consequently, the definition in Section 653k can be applied to the entirety of new Part 6
24 without effecting a substantive change. Proposed Section 17235 would therefore define
25 “switchblade knife” as used “in this part.”

26 § 17240. “Tear gas”

27 17240. (a) As used in this part, “tear gas” applies to and includes any liquid,
28 gaseous or solid substance intended to produce temporary physical discomfort or
29 permanent injury through being vaporized or otherwise dispersed in the air.

30 (b) Notwithstanding subdivision (a), “tear gas” does not apply to, and does not
31 include, any substance registered as an economic poison as provided in Chapter 2
32 (commencing with Section 12751) of Division 7 of the Food and Agricultural
33 Code, provided that such substance is not intended to be used to produce
34 discomfort or injury to human beings.

35 **Comment.** Section 17240 continues former Section 12401 without substantive change.

36 § 17250. “Tear gas weapon”

37 17250. As used in this part, “tear gas weapon” applies to and includes:

38 (a) Any shell, cartridge, or bomb capable of being discharged or exploded, when
39 the discharge or explosion will cause or permit the release or emission of tear gas.

1 (b) Any revolver, pistol, fountain pen gun, billy, or other form of device,
2 portable or fixed, intended for the projection or release of tear gas, except those
3 regularly manufactured and sold for use with firearm ammunition.

4 **Comment.** Section 17250 continues former Section 12402 without substantive change.

5 **§ 17270. “Unconventional pistol”**

6 17270. As used in this part, an “unconventional pistol” means a firearm with
7 both of the following characteristics:

8 (a) It does not have a rifled bore.

9 (b) It has a barrel or barrels of less than 18 inches in length or has an overall
10 length of less than 26 inches.

11 **Comment.** Section 17270 continues former Section 12020(c)(12) without substantive change.
12 See Sections 16520 (“firearm”), 17010 (“pistol”).

13 **§ 17280. “Undetectable firearm”**

14 17280. As used in this part, “undetectable firearm” means a weapon that meets
15 either of the following requirements:

16 (a) After removal of grips, stocks, and magazines, the weapon is not as
17 detectable as the Security Exemplar, by a walk-through metal detector calibrated
18 and operated to detect the Security Exemplar.

19 (b) Any major component of the weapon, as defined in Section 922 of Title 18 of
20 the United States Code, when subjected to inspection by the types of X-ray
21 machines commonly used at airports, does not generate an image that accurately
22 depicts the shape of the component. Barium sulfate or other compounds may be
23 used in the fabrication of the component.

24 **Comment.** Section 17280 continues former Section 12020(c)(22)(A)-(B) without substantive
25 change. With respect to the definition of “major component,” Section 17280 also continues
26 former Section 12020(c)(22)(C) without substantive change.

27 See Sections 16520(a) & (f) (“firearm”), 17125 (“Security Exemplar”).

28 **Staff Note.** Proposed Section 17280 has been previously presented. See Memorandum 2008-
29 17, Attachment pp. 53-54. We have revised the provision consistent with the discussion of “major
30 component” in this memorandum.

31 **§ 17290. “Undetectable knife”**

32 17290. As used in this part, “undetectable knife” means any knife or other
33 instrument, with or without a handguard, that satisfies all of the following
34 requirements:

35 (a) It is capable of ready use as a stabbing weapon that may inflict great bodily
36 injury or death.

37 (b) It is commercially manufactured to be used as a weapon.

38 (c) It is not detectable by a metal detector or magnetometer, either handheld or
39 otherwise, which is set at standard calibration.

40 **Comment.** Section 17290 continues the second sentence of former Section 12001.1(a) without
41 substantive change.

1 § 17300. “Unsafe handgun”

2 17300. As used in this part, “unsafe handgun” means any pistol, revolver, or
3 other firearm capable of being concealed upon the person, for which any of the
4 following is true:

5 (a) For a revolver:

6 (1) It does not have a safety device that, either automatically in the case of a
7 double-action firing mechanism, or by manual operation in the case of a single-
8 action firing mechanism, causes the hammer to retract to a point where the firing
9 pin does not rest upon the primer of the cartridge.

10 (2) It does not meet the firing requirement for handguns.

11 (3) It does not meet the drop safety requirement for handguns.

12 (b) For a pistol:

13 (1) It does not have a positive manually operated safety device, as determined by
14 standards relating to imported guns promulgated by the federal Bureau of Alcohol,
15 Tobacco, and Firearms.

16 (2) It does not meet the firing requirement for handguns.

17 (3) It does not meet the drop safety requirement for handguns.

18 (4) Commencing January 1, 2006, for a center fire semiautomatic pistol that is
19 not already listed on the roster pursuant to [Section 12131], it does not have either
20 a chamber load indicator, or a magazine disconnect mechanism.

21 (5) Commencing January 1, 2007, for all center fire semiautomatic pistols that
22 are not already listed on the roster pursuant to [Section 12131], it does not have
23 both a chamber load indicator and if it has a detachable magazine, a magazine
24 disconnect mechanism.

25 (6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are
26 not already listed on the roster pursuant to [Section 12131], it does not have a
27 magazine disconnect mechanism, if it has a detachable magazine.

28 (7)(A) Commencing January 1, 2010, for all semiautomatic pistols that are not
29 already listed on the roster pursuant to [Section 12131], it is not designed and
30 equipped with a microscopic array of characters that identify the make, model, and
31 serial number of the pistol, etched or otherwise imprinted in two or more places on
32 the interior surface or internal working parts of the pistol, and that are transferred
33 by imprinting on each cartridge case when the firearm is fired, provided that the
34 Department of Justice certifies that the technology used to create the imprint is
35 available to more than one manufacturer unencumbered by any patent restrictions.

36 (B) As specified in Section _____, the Attorney General may also approve a
37 method of equal or greater reliability and effectiveness in identifying the specific
38 serial number of a firearm from spent cartridge casings discharged by that firearm.

39 (C) The microscopic array of characters required by this section shall not be
40 considered the name of the maker, model, manufacturer’s number, or other mark
41 of identification, including any distinguishing number or mark assigned by the
42 Department of Justice, within the meaning of [Sections 12090 and 12094].

1 **Comment.** Section 17300 continues the introductory clause and subdivisions (a) and (b)(1)-(6)
2 of former Section 12126 without substantive change. Section 17300 also continues the first
3 sentence, part of the second sentence, and the last sentence of former Section 12126(b)(7) without
4 substantive change. The remainder of former Section 12126(b)(7) is continued in Section _____
5 without substantive change.

6 See Sections 16380 (“chamber load indicator”), 16500 (“drop safety requirement for
7 handguns”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
8 “pistol,” and “revolver”), 16560 (“firing requirement for handguns”), 16640 (“handgun”), 16900
9 (“magazine disconnect mechanism”), 17010 (“pistol”), 17080 (“revolver”), 17140
10 (“semiautomatic pistol”).

11 **§ 17310. “Used firearm”**

12 17310. As used in this part, “used firearm” means a firearm that has been sold
13 previously at retail and is more than three years old.

14 **Comment.** Section 17310 continues the last sentence of former Section 12070(b)(5) without
15 substantive change.

16 See Section 16520 (“firearm”).

17 **§ 17320. “Violent felony”**

18 17320. For purposes of [Section 12370] only, “violent felony” refers to the
19 specific crimes listed in subdivision (c) of Section 667.5, and to crimes defined
20 under the applicable laws of the United States or any other state, government, or
21 country that are reasonably equivalent to the crimes listed in subdivision (c) of
22 Section 667.5.

23 **Comment.** Section 17320 continues former Section 12370(e) without substantive change.

24 **§ 17330. “Wallet gun”**

25 17330. As used in this part, “wallet gun” means any firearm mounted or
26 enclosed in a case, resembling a wallet, designed to be or capable of being carried
27 in a pocket or purse, if the firearm may be fired while mounted or enclosed in the
28 case.

29 **Comment.** Section 17330 continues former Section 12020(c)(4) without substantive change.

30 See Section 16520 (“firearm”).

31 **§ 17340. “Wholesaler”**

32 17340. (a) As used in this part, “wholesaler” means any person who is licensed
33 as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of
34 the United States Code and the regulations issued pursuant thereto, who sells,
35 transfers, or assigns firearms, or parts of firearms, to persons who are licensed as
36 manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with
37 Section 921) of Title 18 of the United States Code, or persons licensed pursuant to
38 [Section 12071], and includes persons who receive finished parts of firearms and
39 assemble them into completed or partially completed firearms in furtherance of
40 that purpose.

41 (b) “Wholesaler” shall not include a manufacturer, importer, or gunsmith who is
42 licensed to engage in those activities pursuant to Chapter 44 (commencing with

1 Section 921) of Title 18 of the United States Code or a person licensed pursuant to
2 [Section 12071] and the regulations issued pursuant thereto. A wholesaler also
3 does not include a person dealing exclusively in grips, stocks, and other parts of
4 firearms that are not frames or receivers thereof.

5 **Comment.** Section 17340 continues former Section 12001(h) without substantive change.
6 See Sections 16520 (“firearm”), 16630 (“gunsmith”).

7 **§ 17350. “Writing pen knife”**

8 17350. As used in this part, “writing pen knife” means a device that appears to
9 be a writing pen but has concealed within it a pointed, metallic shaft that is
10 designed to be a stabbing instrument which is exposed by mechanical action or
11 gravity which locks into place when extended or the pointed, metallic shaft is
12 exposed by the removal of the cap or cover on the device.

13 **Comment.** Section 17350 continues former Section 12020(c)(19) without substantive change.

14 **§ 17360. “Zip gun”**

15 17360. As used in this part, “zip gun” means any weapon or device that meets
16 all of the following criteria:

17 (a) It was not imported as a firearm by an importer licensed pursuant to Chapter
18 44 (commencing with Section 921) of Title 18 of the United States Code and the
19 regulations issued pursuant thereto.

20 (b) It was not originally designed to be a firearm by a manufacturer licensed
21 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
22 States Code and the regulations issued pursuant thereto.

23 (c) No tax was paid on the weapon or device nor was an exemption from paying
24 tax on that weapon or device granted under Section 4181 and Subchapters F
25 (commencing with Section 4216) and G (commencing with Section 4221) of
26 Chapter 32 of Title 26 of the United States Code, as amended, and the regulations
27 issued pursuant thereto.

28 (d) It is made or altered to expel a projectile by the force of an explosion or
29 other form of combustion.

30 **Comment.** Section 17360 continues former Section 12020(c)(10) without substantive change.
31 See Section 16520 (“firearm”).