

Memorandum 2008-57

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Title 2 of Part 4 of the Penal Code (as of Jan. 1, 2009)**

As directed by the Legislature, the Commission is preparing a nonsubstantive reorganization of the statutes governing control of deadly weapons, which are currently located in Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809). In conducting that project, it is often necessary to refer to the text of those provisions.

For convenient reference, attached is the text of those provisions, updated to reflect legislation enacted in 2008. Aside from an urgency measure that became operative on enactment (SB 1033 (Runner), 2008 Cal. Stat. ch. 111), the new legislation will become operative on January 1, 2009.

The following Penal Code provisions were affected by the new legislation:

- **Section 12001.1**, which was amended by SB 1033 (Runner). See 2008 Cal. Stat. ch. 111.
- **Section 12002**, which was amended by AB 2245 (Soto). See 2008 Cal. Stat. ch. 96.
- **Section 12011**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12020**, which was amended by SB 1241 (Margett). See 2008 Cal. Stat. ch. 699.
- **Section 12020.1**, which was amended by SB 1162 (Maldonado). See 2008 Cal. Stat. ch. 346.
- **Section 12021**, which was amended by SB 1302 (Cogdill). See 2008 Cal. Stat. ch. 599.
- **Section 12022.3**, which was amended by SB 1302 (Cogdill). See 2008 Cal. Stat. ch. 599.
- **Section 12022.8**, which was amended by SB 1302 (Cogdill). See 2008 Cal. Stat. ch. 599.
- **Section 12026.1**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.

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.

- **Section 12050**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12052**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12071**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12072**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12076**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698. Section 12076 was also amended by SB 1241 (Margett), but that amendment was subordinated to the amendment made by AB 837 (Feuer). See 2008 Cal. Stat. ch. 699, §§ 19, 33.
- **Section 12077.5**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12078**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12082**, which was amended by SB 1241 (Margett). See 2008 Cal. Stat. ch. 699.
- **Section 12086**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12091**, which was repealed by SB 837 (Margett). See 2008 Cal. Stat. ch. 699.
- **Section 12094**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12101**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12280**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12285**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12305**, which was amended by AB 837 (Feuer). See 2008 Cal. Stat. ch. 698.
- **Section 12556**, which was amended by AB 2470 (Karnette). That amendment incorporates revisions made by AB 352 (Solorio). See 2008 Cal. Stat. ch. 676, §§ 2.5, 4.
- **Section 12655**, which was added by AB 2973 (Soto). See 2008 Cal. Stat. ch. 556.

Staff Notes ( **Staff Note**) at appropriate places in the attachment reflect this information.

Please keep the attachment for reference purposes throughout 2009. If you are aware of any changes to Title 2 of Part 4 that are not properly reflected in the

attachment, or any other new legislation that is relevant to this study, please notify the staff.

Respectfully submitted,

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Study M-300

PENAL CODE: PART 4

TITLE 2. CONTROL OF DEADLY WEAPONS

(PENAL CODE §§ 12000-12809,
AS OF JAN. 1, 2009)

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1 **Staff Note.** In the following version of Title 2 of Part 4 of the Penal Code, statutory and
2 constitutional references are shown in gray. Definitions are shown by putting the defined term in
3 **boldface.**

4 TITLE 2. CONTROL OF DEADLY WEAPONS

5 CHAPTER 1. FIREARMS

6 Article 1. General Provisions

7 **Penal Code § 12000. Dangerous Weapons Control Law**

8 12000. This chapter shall be known and may be cited as **“The Dangerous**
9 **Weapons Control Law.”**

10 **Penal Code § 12001. Definitions**

11 12001. (a)(1) As used in this title, the terms **“pistol,” “revolver,”** and **“firearm**
12 **capable of being concealed upon the person”** shall apply to and include any
13 device designed to be used as a weapon, from which is expelled a projectile by the
14 force of any explosion, or other form of combustion, and that has a barrel less than
15 16 inches in length. These terms also include any device that has a barrel 16 inches
16 or more in length which is designed to be interchanged with a barrel less than 16
17 inches in length.

18 (2) As used in this title, the term **“handgun”** means any **“pistol,” “revolver,”**
19 or **“firearm capable of being concealed upon the person.”**

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

23 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078,
24 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare
25 and Institutions Code, the term **“firearm”** includes the frame or receiver of the
26 weapon.

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

31 (e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a),
32 and subdivisions (b), (c), (d), and (f) of Section 12072, the term **“firearm”** does
33 not include an unloaded firearm that is defined as an **“antique firearm”** in
34 Section 921(a)(16) of Title 18 of the United States Code.

35 (f) Nothing shall prevent a device defined as a **“handgun,” “pistol,”**
36 **“revolver,”** or **“firearm capable of being concealed upon the person”** from also

1 being found to be a short-barreled shotgun or a short-barreled rifle, as defined in
2 Section 12020.

3 (g) For purposes of Sections 12551 and 12552, the term “**BB device**” means any
4 instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm
5 caliber, through the force of air pressure, gas pressure, or spring action, or any spot
6 marker gun.

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

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

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

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

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

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

32 (k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073,
33 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the
34 Welfare and Institutions Code, notwithstanding the fact that the term “**any**
35 **firearm**” may be used in those sections, each firearm or the frame or receiver of
36 the same shall constitute a distinct and separate offense under those sections.

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

40 (m) Each application that requires any firearms eligibility determination
41 involving the issuance of any license, permit, or certificate pursuant to this title
42 shall include two copies of the applicant’s fingerprints on forms prescribed by the

1 Department of Justice. One copy of the fingerprints may be submitted to the
2 United States Federal Bureau of Investigation.

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

5 (1) He or she is not a person licensed pursuant to Section 12071.

6 (2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44
7 (commencing with Section 921) of Title 18 of the United States Code.

8 (3) He or she is not a licensed importer of firearms pursuant to Chapter 44
9 (commencing with Section 921) of Title 18 of the United States Code and the
10 regulations issued pursuant thereto.

11 (4) He or she is the owner of a handgun.

12 (5) He or she acquired that handgun outside of California.

13 (6) He or she moves into this state on or after January 1, 1998, as a resident of
14 this state.

15 (7) He or she intends to possess that handgun within this state on or after
16 January 1, 1998.

17 (8) The handgun was not delivered to him or her by a person licensed pursuant
18 to Section 12071 who delivered that firearm following the procedures set forth in
19 Section 12071 and subdivision (c) of Section 12072.

20 (9) He or she, while a resident of this state, had not previously reported his or
21 her ownership of that handgun to the Department of Justice in a manner prescribed
22 by the department that included information concerning him or her and a
23 description of the firearm.

24 (10) The handgun is not a firearm that is prohibited by subdivision (a) of Section
25 12020.

26 (11) The handgun is not an assault weapon, as defined in Section 12276 or
27 12276.1.

28 (12) The handgun is not a machinegun, as defined in Section 12200.

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

30 (o) For purposes of paragraph (6) of subdivision (n):

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

34 (2) In the case of members of the Armed Forces of the United States, residency
35 shall be deemed to be established when he or she was discharged from active
36 service in this state.

37 (p) As used in this code, **“basic firearms safety certificate”** means a certificate
38 issued by the Department of Justice pursuant to Article 8 (commencing with
39 Section 12800) of Chapter 6 of Title 2 of Part 4, prior to January 1, 2003.

40 (q) As used in this code, **“handgun safety certificate”** means a certificate
41 issued by the Department of Justice pursuant to Article 8 (commencing with
42 Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or
43 after January 1, 2003.

1 (r) As used in this title, “**gunsmith**” means any person who is licensed as a
2 dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
3 United States Code and the regulations issued pursuant thereto, who is engaged
4 primarily in the business of repairing firearms, or making or fitting special barrels,
5 stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

6 (s) As used in this title, “**consultant-evaluator**” means a consultant or evaluator
7 who, in the course of his or her profession is loaned firearms from a person
8 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
9 United States Code and the regulations issued pursuant thereto, for his or her
10 research or evaluation, and has a current certificate of eligibility issued to him or
11 her pursuant to Section 12071.

12 **Penal Code § 12001.1 Undetectable knives**

13 12001.1. (a) Any person in this state who commercially manufactures or causes
14 to be commercially manufactured, or who knowingly imports into the state for
15 commercial sale, or who knowingly exports out of this state for commercial,
16 dealer, wholesaler, or distributor sale, or who keeps for commercial sale, or offers
17 or exposes for commercial, dealer, wholesaler, or distributor sale, any undetectable
18 knife is guilty of a misdemeanor. As used in this section, an “**undetectable knife**”
19 means any knife or other instrument with or without a handguard that is capable of
20 ready use as a stabbing weapon that may inflict great bodily injury or death that is
21 commercially manufactured to be used as a weapon and is not detectable by a
22 metal detector or magnetometer, either handheld or otherwise, that is set at
23 standard calibration.

24 (b) Notwithstanding any other provision of law, commencing January 1, 2000,
25 all knives or other instrument with or without a handguard that is capable of ready
26 use as a stabbing weapon that may inflict great bodily injury or death that are
27 commercially manufactured in this state that utilize materials that are not
28 detectable by a metal detector or magnetometer, shall be manufactured to include
29 materials that will ensure they are detectable by a metal detector or magnetometer,
30 either handheld or otherwise, that is set at standard calibration.

31 (c) This section shall not apply to the manufacture or importation of
32 undetectable knives for sale to a law enforcement or military entity with a valid
33 agency, department, or unit purchase order, nor shall this section apply to the
34 subsequent sale of these knives to a law enforcement or military entity.

35 (d) This section shall not apply to the manufacture or importation of
36 undetectable knives for sale to federal, state, and local historical societies,
37 museums, and institutional collections which are open to the public, provided that
38 the undetectable knives are properly housed and secured from unauthorized
39 handling, nor shall this section apply to the subsequent sale of the knives to these
40 societies, museums, and collections.

41 **Staff Note.** The text of this provision reflects an amendment made by SB 1033 (Runner), an
42 urgency measure. See 2008 Cal. Stat. ch. 111.

1 **Penal Code § 12001.5. Manufacture, import, sale, gift, loan, or possession of short-barreled**
2 **shotgun or short-barreled rifle**

3 12001.5. Except as expressly provided in Section 12020, and solely in
4 accordance with Section 12020, no person may manufacture, import into this state,
5 keep for sale, offer for sale, give, lend, or possess any short-barreled shotgun or
6 short-barreled rifle, as defined in Section 12020, and nothing else in this chapter
7 shall be construed as authorizing the manufacture, importation into the state,
8 keeping for sale, offering for sale, or giving, lending, or possession of any short-
9 barreled shotgun or short-barreled rifle, as defined in Section 12020.

10 **Penal Code § 12001.6. Violent use of firearm**

11 12001.6. As used in this chapter, an offense which involves the violent use of a
12 firearm includes any of the following:

13 (a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a
14 violation of subdivision (d) of Section 245.

15 (b) A violation of Section 246.

16 (c) A violation of paragraph (2) of subdivision (a) of Section 417.

17 (d) A violation of subdivision (c) of Section 417.

18 **Penal Code § 12002. Wooden club or baton for law enforcement purposes**

19 12002. (a) Nothing in this chapter prohibits police officers, special police
20 officers, peace officers, or law enforcement officers from carrying any wooden
21 club, baton, or any equipment authorized for the enforcement of law or ordinance
22 in any city or county.

23 (b) Nothing in this chapter prohibits a uniformed security guard, regularly
24 employed and compensated by a person engaged in any lawful business, while
25 actually employed and engaged in protecting and preserving property or life
26 within the scope of his or her employment, from carrying any wooden club or
27 baton if the uniformed security guard has satisfactorily completed a course of
28 instruction certified by the Department of Consumer Affairs in the carrying and
29 use of the club or baton. The training institution certified by the Department of
30 Consumer Affairs to present this course, whether public or private, is authorized to
31 charge a fee covering the cost of the training.

32 (c) The Department of Consumer Affairs, in cooperation with the Commission
33 on Peace Officer Standards and Training, shall develop standards for a course in
34 the carrying and use of the club or baton.

35 (d) Any uniformed security guard who successfully completes a course of
36 instruction under this section is entitled to receive a permit to carry and use a club
37 or baton within the scope of his or her employment, issued by the Department of
38 Consumer Affairs. The department may authorize certified training institutions to
39 issue permits to carry and use a club or baton. A fee in the amount provided by
40 law shall be charged by the Department of Consumer Affairs to offset the costs

1 incurred by the department in course certification, quality control activities
2 associated with the course, and issuance of the permit.

3 (e) Any person who has received a permit or certificate which indicates
4 satisfactory completion of a club or baton training course approved by the
5 Commission on Peace Officer Standards and Training prior to January 1, 1983,
6 shall not be required to obtain a baton or club permit or complete a course certified
7 by the Department of Consumer Affairs.

8 (f) Any person employed as a county sheriff's or police security officer, as
9 defined in **Section 831.4**, shall not be required to obtain a club or baton permit or
10 to complete a course certified by the Department of Consumer Affairs in the
11 carrying and use of a club or baton, provided that the person completes a course
12 approved by the Commission on Peace Officer Standards and Training in the
13 carrying and use of the club or baton, within 90 days of employment.

14 (g) Nothing in **this chapter** prohibits an animal control officer, as described in
15 **Section 830.9**, or an illegal dumping enforcement officer, as described in **Section**
16 **830.7**, from carrying any wooden club or baton if the animal control officer or
17 illegal dumping enforcement officer has satisfactorily completed a course of
18 instruction certified by the Department of Consumer Affairs in the carrying and
19 use of the club or baton. The training institution certified by the Department of
20 Consumer Affairs to present this course, whether public or private, is authorized to
21 charge a fee covering the cost of the training.

22 **Staff Note.** The text of this provision reflects an amendment made by AB 2245 (Soto). See
23 2008 Cal. Stat. ch. 96.

24 **Penal Code § 12003. Severability**

25 12003. If any section, subsection, sentence, clause or phrase of this chapter is for
26 any reason held to be unconstitutional such decision shall not affect the validity of
27 the remaining portions of **this chapter**. The Legislature hereby declares that it
28 would have passed **this act and each section, subsection, sentence, clause and**
29 **phrase thereof**, irrespective of the fact that any one or more **other sections,**
30 **subsections, sentences, clauses or phrases** be declared unconstitutional.

31 Article 1.5. Prohibited Armed Persons File

32 **Penal Code § 12010. Prohibited Armed Persons File**

33 12010. (a) The Attorney General shall establish and maintain an online database
34 to be known as the Prohibited Armed Persons File. The purpose of the file is to
35 cross-reference persons who have ownership or possession of a firearm on or after
36 January 1, 1991, as indicated by a record in the Consolidated Firearms Information
37 System, and who, subsequent to the date of that ownership or possession of a
38 firearm, fall within a class of persons who are prohibited from owning or
39 possessing a firearm.

1 (b) The information contained in the Prohibited Armed Persons File shall only
2 be available to those entities specified in, and pursuant to, subdivision (b) or (c) of
3 Section 11105, through the California Law Enforcement Telecommunications
4 System, for the purpose of determining if persons are armed and prohibited from
5 possessing firearms.

6 **Penal Code § 12011. Use of Prohibited Armed Persons File**

7 12011. The Prohibited Armed Persons File database shall function as follows:

8 (a) Upon entry into the Automated Criminal History System of a disposition for
9 a conviction of any felony, a conviction for any firearms-prohibiting charge
10 specified in Section 12021, a conviction for an offense described in Section
11 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare
12 and Institutions Code, or any firearms possession prohibition identified by the
13 federal National Instant Check System, the Department of Justice shall determine
14 if the subject has an entry in the Consolidated Firearms Information System
15 indicating possession or ownership of a firearm on or after January 1, 1991, or an
16 assault weapon registration, or a .50 BMG rifle registration.

17 (b) Upon an entry into any department automated information system that is
18 used for the identification of persons who are prohibited by state or federal law
19 from acquiring, owning, or possessing firearms, the department shall determine if
20 the subject has an entry in the Consolidated Firearms Information System
21 indicating ownership or possession of a firearm on or after January 1, 1991, or an
22 assault weapon registration, or a .50 BMG rifle registration.

23 (c) If the department determines that, pursuant to subdivision (a) or (b), the
24 subject has an entry in the Consolidated Firearms Information System indicating
25 possession or ownership of a firearm on or after January 1, 1991, or an assault
26 weapon registration, or a .50 BMG rifle registration, the following information
27 shall be entered into the Prohibited Armed Persons File:

28 (1) The subject's name.

29 (2) The subject's date of birth.

30 (3) The subject's physical description.

31 (4) Any other identifying information regarding the subject that is deemed
32 necessary by the Attorney General.

33 (5) The basis of the firearms possession prohibition.

34 (6) A description of all firearms owned or possessed by the subject, as reflected
35 by the Consolidated Firearms Information System.

36 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
37 2008 Cal. Stat. ch. 698.

38 **Penal Code § 12012. Assistance by Attorney General**

39 12012. The Attorney General shall provide investigative assistance to local law
40 enforcement agencies to better ensure the investigation of individuals who are
41 armed and prohibited from possessing a firearm.

1 Article 2. Unlawful Carrying and Possession of Weapons

2 **Penal Code § 12020. Manufacture, import, sale, gift, loan, or possession of specified**
3 **weapons**

4 12020. (a) Any person in this state who does any of the following is punishable
5 by imprisonment in a county jail not exceeding one year or in the state prison:

6 (1) Manufactures or causes to be manufactured, imports into the state, keeps for
7 sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun
8 or wallet gun, any undetectable firearm, any firearm which is not immediately
9 recognizable as a firearm, any camouflaging firearm container, any ammunition
10 which contains or consists of any flechette dart, any bullet containing or carrying
11 an explosive agent, any ballistic knife, any multiburst trigger activator, any
12 nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal
13 knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any
14 unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any
15 air gauge knife, any writing pen knife, any metal military practice handgrenade or
16 metal replica handgrenade, or any instrument or weapon of the kind commonly
17 known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

18 (2) Commencing January 1, 2000, manufactures or causes to be manufactured,
19 imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or
20 lends, any large-capacity magazine.

21 (3) Carries concealed upon his or her person any explosive substance, other than
22 fixed ammunition.

23 (4) Carries concealed upon his or her person any dirk or dagger.

24 However, a first offense involving any metal military practice handgrenade or
25 metal replica handgrenade shall be punishable only as an infraction unless the
26 offender is an active participant in a criminal street gang as defined in the Street
27 Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with
28 Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive
29 agent is not a destructive device as that term is used in Section 12301.

30 (b) Subdivision (a) does not apply to any of the following:

31 (1) The sale to, purchase by, or possession of short-barreled shotguns or short-
32 barreled rifles by police departments, sheriffs' offices, marshals' offices, the
33 California Highway Patrol, the Department of Justice, the Department of
34 Corrections and Rehabilitation, or the military or naval forces of this state or of the
35 United States for use in the discharge of their official duties or the possession of
36 short-barreled shotguns and short-barreled rifles by peace officer members of a
37 police department, sheriff's office, marshal's office, the California Highway
38 Patrol, the Department of Justice, or the Department of Corrections and
39 Rehabilitation, when on duty and the use is authorized by the agency and is within
40 the course and scope of their duties and the peace officer has completed a training
41 course in the use of these weapons certified by the Commission on Peace Officer
42 Standards and Training.

1 (2) The manufacture, possession, transportation or sale of short-barreled
2 shotguns or short-barreled rifles when authorized by the Department of Justice
3 pursuant to Article 6 (commencing with Section 12095) and not in violation of
4 federal law.

5 (3) The possession of a nunchaku on the premises of a school which holds a
6 regulatory or business license and teaches the arts of self-defense.

7 (4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a
8 school which holds a regulatory or business license and teaches the arts of self-
9 defense.

10 (5) Any antique firearm. For purposes of this section, “antique firearm” means
11 any firearm not designed or redesigned for using rimfire or conventional center
12 fire ignition with fixed ammunition and manufactured in or before 1898 (including
13 any matchlock, flintlock, percussion cap, or similar type of ignition system or
14 replica thereof, whether actually manufactured before or after the year 1898) and
15 also any firearm using fixed ammunition manufactured in or before 1898, for
16 which ammunition is no longer manufactured in the United States and is not
17 readily available in the ordinary channels of commercial trade.

18 (6) Tracer ammunition manufactured for use in shotguns.

19 (7) Any firearm or ammunition that is a curio or relic as defined in Section
20 478.11 of Title 27 of the Code of Federal Regulations and which is in the
21 possession of a person permitted to possess the items pursuant to Chapter 44
22 (commencing with Section 921) of Title 18 of the United States Code and the
23 regulations issued pursuant thereto. Any person prohibited by Section 12021,
24 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and
25 Institutions Code from possessing firearms or ammunition who obtains title to
26 these items by bequest or intestate succession may retain title for not more than
27 one year, but actual possession of these items at any time is punishable pursuant to
28 Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the
29 Welfare and Institutions Code. Within the year, the person shall transfer title to the
30 firearms or ammunition by sale, gift, or other disposition. Any person who violates
31 this paragraph is in violation of subdivision (a).

32 (8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of
33 the United States Code and which is in the possession of a person permitted to
34 possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law
35 90-618), as amended, and the regulations issued pursuant thereto. Any person
36 prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or
37 8103 of the Welfare and Institutions Code from possessing these weapons who
38 obtains title to these weapons by bequest or intestate succession may retain title
39 for not more than one year, but actual possession of these weapons at any time is
40 punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section
41 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person
42 shall transfer title to the weapons by sale, gift, or other disposition.

1 Any person who violates this paragraph is in violation of subdivision (a). The
2 exemption provided in this subdivision does not apply to pen guns.

3 (9) Instruments or devices that are possessed by federal, state, and local
4 historical societies, museums, and institutional collections which are open to the
5 public, provided that these instruments or devices are properly housed, secured
6 from unauthorized handling, and, if the instrument or device is a firearm,
7 unloaded.

8 (10) Instruments or devices, other than short-barreled shotguns or short-barreled
9 rifles, that are possessed or utilized during the course of a motion picture,
10 television, or video production or entertainment event by an authorized participant
11 therein in the course of making that production or event or by an authorized
12 employee or agent of the entity producing that production or event.

13 (11) Instruments or devices, other than short-barreled shotguns or short-barreled
14 rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by,
15 imported by, or lent by persons who are in the business of selling instruments or
16 devices listed in subdivision (a) solely to the entities referred to in paragraphs (9)
17 and (10) when engaging in transactions with those entities.

18 (12) The sale to, possession of, or purchase of any weapon, device, or
19 ammunition, other than a short-barreled rifle or short-barreled shotgun, by any
20 federal, state, county, city and county, or city agency that is charged with the
21 enforcement of any law for use in the discharge of their official duties, or the
22 possession of any weapon, device, or ammunition, other than a short-barreled rifle
23 or short-barreled shotgun, by peace officers thereof when on duty and the use is
24 authorized by the agency and is within the course and scope of their duties.

25 (13) Weapons, devices, and ammunition, other than a short-barreled rifle or
26 short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale
27 by, possessed by, imported by, or lent by, persons who are in the business of
28 selling weapons, devices, and ammunition listed in subdivision (a) solely to the
29 entities referred to in paragraph (12) when engaging in transactions with those
30 entities.

31 (14) The manufacture for, sale to, exposing or keeping for sale to, importation
32 of, or lending of wooden clubs or batons to special police officers or uniformed
33 security guards authorized to carry any wooden club or baton pursuant to Section
34 12002 by entities that are in the business of selling wooden batons or clubs to
35 special police officers and uniformed security guards when engaging in
36 transactions with those persons.

37 (15) Any plastic toy handgrenade, or any metal military practice handgrenade or
38 metal replica handgrenade that is a relic, curio, memorabilia, or display item, that
39 is filled with a permanent inert substance or that is otherwise permanently altered
40 in a manner that prevents ready modification for use as a grenade.

41 (16) Any instrument, ammunition, weapon, or device listed in subdivision (a)
42 that is not a firearm that is found and possessed by a person who meets all of the
43 following:

1 (A) The person is not prohibited from possessing firearms or ammunition
2 pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of
3 Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions
4 Code.

5 (B) The person possessed the instrument, ammunition, weapon, or device no
6 longer than was necessary to deliver or transport the same to a law enforcement
7 agency for that agency's disposition according to law.

8 (C) If the person is transporting the listed item, he or she is transporting the
9 listed item to a law enforcement agency for disposition according to law.

10 (17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that
11 is found and possessed by a person who meets all of the following:

12 (A) The person is not prohibited from possessing firearms or ammunition
13 pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of
14 Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions
15 Code.

16 (B) The person possessed the firearm no longer than was necessary to deliver or
17 transport the same to a law enforcement agency for that agency's disposition
18 according to law.

19 (C) If the person is transporting the firearm, he or she is transporting the firearm
20 to a law enforcement agency for disposition according to law.

21 (D) Prior to transporting the firearm to a law enforcement agency, he or she has
22 given prior notice to that law enforcement agency that he or she is transporting the
23 firearm to that law enforcement agency for disposition according to law.

24 (E) The firearm is transported in a locked container as defined in subdivision (d)
25 of Section 12026.2.

26 (18) The possession of any weapon, device, or ammunition, by a forensic
27 laboratory or any authorized agent or employee thereof in the course and scope of
28 his or her authorized activities.

29 (19) The sale of, giving of, lending of, importation into this state of, or purchase
30 of, any large-capacity magazine to or by any federal, state, county, city and
31 county, or city agency that is charged with the enforcement of any law, for use by
32 agency employees in the discharge of their official duties whether on or off duty,
33 and where the use is authorized by the agency and is within the course and scope
34 of their duties.

35 (20) The sale to, lending to, transfer to, purchase by, receipt of, or importation
36 into this state of, a large-capacity magazine by a sworn peace officer as defined in
37 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized
38 to carry a firearm in the course and scope of his or her duties.

39 (21) The sale or purchase of any large-capacity magazine to or by a person
40 licensed pursuant to Section 12071.

41 (22) The loan of a lawfully possessed large-capacity magazine between two
42 individuals if all of the following conditions are met:

1 (A) The person being loaned the large-capacity magazine is not prohibited by
2 Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the
3 Welfare and Institutions Code from possessing firearms or ammunition.

4 (B) The loan of the large-capacity magazine occurs at a place or location where
5 the possession of the large-capacity magazine is not otherwise prohibited and the
6 person who lends the large-capacity magazine remains in the accessible vicinity of
7 the person to whom the large-capacity magazine is loaned.

8 (23) The importation of a large-capacity magazine by a person who lawfully
9 possessed the large-capacity magazine in the state prior to January 1, 2000,
10 lawfully took it out of the state, and is returning to the state with the large-capacity
11 magazine previously lawfully possessed in the state.

12 (24) The lending or giving of any large-capacity magazine to a person licensed
13 pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance,
14 repair, or modification of that large-capacity magazine.

15 (25) The return to its owner of any large-capacity magazine by a person
16 specified in paragraph (24).

17 (26) The importation into this state of, or sale of, any large-capacity magazine
18 by a person who has been issued a permit to engage in those activities pursuant to
19 Section 12079, when those activities are in accordance with the terms and
20 conditions of that permit.

21 (27) The sale of, giving of, lending of, importation into this state of, or purchase
22 of, any large-capacity magazine, to or by entities that operate armored vehicle
23 businesses pursuant to the laws of this state.

24 (28) The lending of large-capacity magazines by the entities specified in
25 paragraph (27) to their authorized employees, while in the course and scope of
26 their employment for purposes that pertain to the entity's armored vehicle
27 business.

28 (29) The return of those large-capacity magazines to those entities specified in
29 paragraph (27) by those employees specified in paragraph (28).

30 (30)(A) The manufacture of a large-capacity magazine for any federal, state,
31 county, city and county, or city agency that is charged with the enforcement of any
32 law, for use by agency employees in the discharge of their official duties whether
33 on or off duty, and where the use is authorized by the agency and is within the
34 course and scope of their duties.

35 (B) The manufacture of a large-capacity magazine for use by a sworn peace
36 officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
37 2 who is authorized to carry a firearm in the course and scope of his or her duties.

38 (C) The manufacture of a large-capacity magazine for export or for sale to
39 government agencies or the military pursuant to applicable federal regulations.

40 (31) The loan of a large-capacity magazine for use solely as a prop for a motion
41 picture, television, or video production.

1 (32) The purchase of a large-capacity magazine by the holder of a special
2 weapons permit issued pursuant to **Section 12095, 12230, 12250, 12286, or 12305**,
3 for any of the following purposes:

4 (A) For use solely as a prop for a motion picture, television, or video production.

5 (B) For export pursuant to federal regulations.

6 (C) For resale to law enforcement agencies, government agencies, or the
7 military, pursuant to applicable federal regulations.

8 (c)(1) As used in **this section**, a **“short-barreled shotgun”** means any of the
9 following:

10 (A) A firearm which is designed or redesigned to fire a fixed shotgun shell and
11 having a barrel or barrels of less than 18 inches in length.

12 (B) A firearm which has an overall length of less than 26 inches and which is
13 designed or redesigned to fire a fixed shotgun shell.

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

17 (D) Any device which may be readily restored to fire a fixed shotgun shell
18 which, when so restored, is a device defined in **subparagraphs (A) to (C)**,
19 **inclusive**.

20 (E) Any part, or combination of parts, designed and intended to convert a device
21 into a device defined in **subparagraphs (A) to (C), inclusive**, or any combination of
22 parts from which a device defined in **subparagraphs (A) to (C), inclusive**, can be
23 readily assembled if those parts are in the possession or under the control of the
24 same person.

25 (2) As used in **this section**, a **“short-barreled rifle”** means any of the following:

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

27 (B) A rifle with an overall length of less than 26 inches.

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

31 (D) Any device which may be readily restored to fire a fixed cartridge which,
32 when so restored, is a device defined in **subparagraphs (A) to (C), inclusive**.

33 (E) Any part, or combination of parts, designed and intended to convert a device
34 into a device defined in **subparagraphs (A) to (C), inclusive**, or any combination of
35 parts from which a device defined in **subparagraphs (A) to (C), inclusive**, may be
36 readily assembled if those parts are in the possession or under the control of the
37 same person.

38 (3) As used in **this section**, a **“nunchaku”** means an instrument consisting of
39 two or more sticks, clubs, bars or rods to be used as handles, connected by a rope,
40 cord, wire, or chain, in the design of a weapon used in connection with the practice
41 of a system of self-defense such as karate.

42 (4) As used in **this section**, a **“wallet gun”** means any firearm mounted or
43 enclosed in a case, resembling a wallet, designed to be or capable of being carried

1 in a pocket or purse, if the firearm may be fired while mounted or enclosed in the
2 case.

3 (5) As used in this section, a **“cane gun”** means any firearm mounted or
4 enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable
5 of being used as, an aid in walking, if the firearm may be fired while mounted or
6 enclosed therein.

7 (6) As used in this section, a **“flechette dart”** means a dart, capable of being
8 fired from a firearm, that measures approximately one inch in length, with tail fins
9 that take up approximately five-sixteenths of an inch of the body.

10 (7) As used in this section, **“metal knuckles”** means any device or instrument
11 made wholly or partially of metal which is worn for purposes of offense or defense
12 in or on the hand and which 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 (8) As used in this section, a **“ballistic knife”** means a device that propels a
18 knifelike blade as a projectile by means of a coil spring, elastic material, or
19 compressed gas. Ballistic knife does not include any device which propels an
20 arrow or a bolt by means of any common bow, compound bow, crossbow, or
21 underwater speargun.

22 (9) As used in this section, a **“camouflaging firearm container”** means a
23 container which meets all of the following criteria:

24 (A) It is designed and intended to enclose a firearm.

25 (B) It is designed and intended to allow the firing of the enclosed firearm by
26 external controls while the firearm is in the container.

27 (C) It is not readily recognizable as containing a firearm.

28 **“Camouflaging firearm container”** does not include any camouflaging
29 covering used while engaged in lawful hunting or while going to or returning from
30 a lawful hunting expedition.

31 (10) As used in this section, a **“zip gun”** means any weapon or device which
32 meets all of the following criteria:

33 (A) It was not imported as a firearm by an importer licensed pursuant to Chapter
34 44 (commencing with Section 921) of Title 18 of the United States Code and the
35 regulations issued pursuant thereto.

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

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

1 (D) It is made or altered to expel a projectile by the force of an explosion or
2 other form of combustion.

3 (11) As used in **this section**, a **“shuriken”** means any instrument, without
4 handles, consisting of a metal plate having three or more radiating points with one
5 or more sharp edges and designed in the shape of a polygon, trefoil, cross, star,
6 diamond, or other geometric shape for use as a weapon for throwing.

7 (12) As used in **this section**, an **“unconventional pistol”** means a firearm that
8 does not have a rifled bore and has a barrel or barrels of less than 18 inches in
9 length or has an overall length of less than 26 inches.

10 (13) As used in **this section**, a **“belt buckle knife”** is a knife which is made an
11 integral part of a belt buckle and consists of a blade with a length of at least 21/2
12 inches.

13 (14) As used in **this section**, a **“lipstick case knife”** means a knife enclosed
14 within and made an integral part of a lipstick case.

15 (15) As used in **this section**, a **“cane sword”** means a cane, swagger stick, stick,
16 staff, rod, pole, umbrella, or similar device, having concealed within it a blade that
17 may be used as a sword or stiletto.

18 (16) As used in **this section**, a **“shobi-zue”** means a staff, crutch, stick, rod, or
19 pole concealing a knife or blade within it which may be exposed by a flip of the
20 wrist or by a mechanical action.

21 (17) As used in **this section**, a **“leaded cane”** means a staff, crutch, stick, rod,
22 pole, or similar device, unnaturally weighted with lead.

23 (18) As used in **this section**, an **“air gauge knife”** means a device that appears
24 to be an air gauge but has concealed within it a pointed, metallic shaft that is
25 designed to be a stabbing instrument which is exposed by mechanical action or
26 gravity which locks into place when extended.

27 (19) As used in **this section**, a **“writing pen knife”** means a device that appears
28 to be a writing pen but has concealed within it a pointed, metallic shaft that is
29 designed to be a stabbing instrument which is exposed by mechanical action or
30 gravity which locks into place when extended or the pointed, metallic shaft is
31 exposed by the removal of the cap or cover on the device.

32 (20) As used in **this section**, a **“rifle”** means a weapon designed or redesigned,
33 made or remade, and intended to be fired from the shoulder and designed or
34 redesigned and made or remade to use the energy of the explosive in a fixed
35 cartridge to fire only a single projectile through a rifled bore for each single pull of
36 the trigger.

37 (21) As used in **this section**, a **“shotgun”** means a weapon designed or
38 redesigned, made or remade, and intended to be fired from the shoulder and
39 designed or redesigned and made or remade to use the energy of the explosive in a
40 fixed shotgun shell to fire through a smooth bore either a number of projectiles
41 (ball shot) or a single projectile for each pull of the trigger.

42 (22) As used in **this section**, an **“undetectable firearm”** means any weapon
43 which meets one of the following requirements:

1 (A) When, after removal of grips, stocks, and magazines, it is not as detectable
2 as the Security Exemplar, by walk-through metal detectors calibrated and operated
3 to detect the Security Exemplar.

4 (B) When any major component of which, when subjected to inspection by the
5 types of X-ray machines commonly used at airports, does not generate an image
6 that accurately depicts the shape of the component. Barium sulfate or other
7 compounds may be used in the fabrication of the component.

8 (C) For purposes of this paragraph, the terms “**firearm**,” “**major component**,”
9 and “**Security Exemplar**” have the same meanings as those terms are defined in
10 Section 922 of Title 18 of the United States Code.

11 All firearm detection equipment newly installed in nonfederal public buildings
12 in this state shall be of a type identified by either the United States Attorney
13 General, the Secretary of Transportation, or the Secretary of the Treasury, as
14 appropriate, as available state-of-the-art equipment capable of detecting an
15 undetectable firearm, as defined, while distinguishing innocuous metal objects
16 likely to be carried on one’s person sufficient for reasonable passage of the public.

17 (23) As used in this section, a “**multiburst trigger activator**” means one of the
18 following devices:

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

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

25 (24) As used in this section, a “**dirk**” or “**dagger**” means a knife or other
26 instrument with or without a handguard that is capable of ready use as a stabbing
27 weapon that may inflict great bodily injury or death. A nonlocking folding knife, a
28 folding knife that is not prohibited by Section 653k, or a pocketknife is capable of
29 ready use as a stabbing weapon that may inflict great bodily injury or death only if
30 the blade of the knife is exposed and locked into position.

31 (25) As used in this section, “**large-capacity magazine**” means any ammunition
32 feeding device with the capacity to accept more than 10 rounds, but shall not be
33 construed to include any of the following:

34 (A) A feeding device that has been permanently altered so that it cannot
35 accommodate more than 10 rounds.

36 (B) A .22 caliber tube ammunition feeding device.

37 (C) A tubular magazine that is contained in a lever-action firearm.

38 (d) Knives carried in sheaths which are worn openly suspended from the waist
39 of the wearer are not concealed within the meaning of this section.

40  **Staff Note.** The text of this provision reflects an amendment made by SB 1241 (Margett). See
41 2008 Cal. Stat. ch. 699.

1 **Penal Code § 12020.1. Manufacture, import, or sale of hard plastic knuckles**

2 12020.1. Any person in this state who commercially manufactures or causes to
3 be commercially manufactured, or who knowingly imports into the state for
4 commercial sale, keeps for commercial sale, or offers or exposes for commercial
5 sale, any hard plastic knuckles or hard wooden knuckles is guilty of a
6 misdemeanor. As used in this section, “**hard plastic knuckles**” or “**hard wooden**
7 **knuckles**” means any device or instrument made wholly or partially of plastic or
8 of wood, composite, or paper materials that is not a metal knuckle as defined in
9 paragraph (7) of subdivision (c) of Section 12020, that is worn for purposes of
10 offense or defense in or on the hand, and that either protects the wearer’s hand
11 while striking a blow or increases the force of impact from the blow or injury to
12 the individual receiving the blow. The plastic, wood, composite or paper products
13 contained in the device may help support the hand or fist, provide a shield to
14 protect it, or consist of projections or studs that would contact the individual
15 receiving a blow.

16  **Staff Note.** The text of this provision reflects an amendment made by SB 1162 (Maldonado).
17 See 2008 Cal. Stat. ch. 346.

18 **Penal Code § 12020.3. Bright orange or bright green firearm**

19 12020.3. Any person who, for commercial purposes, purchases, sells,
20 manufacturers, ships, transports, distributes, or receives a firearm, where the
21 coloration of the entire exterior surface of the firearm is bright orange or bright
22 green, either singly, in combination, or as the predominant color in combination
23 with other colors in any pattern, is liable for a civil fine in an action brought by the
24 city attorney of the city or the district attorney for the county of not more than ten
25 thousand dollars (\$10,000).

26 **Penal Code § 12020.5. Advertising sale of prohibited weapon or device**

27 12020.5. It shall be unlawful for any person, as defined in Section 12277, to
28 advertise the sale of any weapon or device whose possession is prohibited by
29 Section 12020, 12220, 12280, 12303, 12320, 12321, 12355, or 12520 in any
30 newspaper, magazine, circular, form letter, or open publication that is published,
31 distributed, or circulated in this state, or on any billboard, card, label, or other
32 advertising medium, or by means of any other advertising device.

33 **Penal Code § 12021. Firearm acquisition, possession, or control by person convicted of**
34 **specified offense, addicted to narcotic drug, or subject to injunction**

35 12021. (a)(1) Any person who has been convicted of a felony under the laws of
36 the United States, the State of California, or any other state, government, or
37 country or of an offense enumerated in subdivision (a), (b), or (d) of Section
38 12001.6, or who is addicted to the use of any narcotic drug, and who owns,
39 purchases, receives, or has in his or her possession or under his or her custody or
40 control any firearm is guilty of a felony.

1 (2) Any person who has two or more convictions for violating paragraph (2) of
2 subdivision (a) of Section 417 and who owns, purchases, receives, or has in his or
3 her possession or under his or her custody or control any firearm is guilty of a
4 felony.

5 (b) Notwithstanding subdivision (a), any person who has been convicted of a
6 felony or of an offense enumerated in Section 12001.6, when that conviction
7 results from certification by the juvenile court for prosecution as an adult in an
8 adult court under Section 707 of the Welfare and Institutions Code, and who owns
9 or has in his or her possession or under his or her custody or control any firearm is
10 guilty of a felony.

11 (c)(1) Except as provided in subdivision (a) or paragraph (2) of this subdivision,
12 any person who has been convicted of a misdemeanor violation of Section 71, 76,
13 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d,
14 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6,
15 417, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section
16 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former
17 Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of
18 the Welfare and Institutions Code, any firearm-related offense pursuant to
19 Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct
20 punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10
21 years of the conviction, owns, purchases, receives, or has in his or her possession
22 or under his or her custody or control, any firearm is guilty of a public offense,
23 which shall be punishable by imprisonment in a county jail not exceeding one year
24 or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by
25 both that imprisonment and fine. The court, on forms prescribed by the
26 Department of Justice, shall notify the department of persons subject to this
27 subdivision. However, the prohibition in this paragraph may be reduced,
28 eliminated, or conditioned as provided in paragraph (2) or (3).

29 (2) Any person employed as a peace officer described in Section 830.1, 830.2,
30 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on
31 the ability to legally possess a firearm, who is subject to the prohibition imposed
32 by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9,
33 may petition the court only once for relief from this prohibition. The petition shall
34 be filed with the court in which the petitioner was sentenced. If possible, the
35 matter shall be heard before the same judge who sentenced the petitioner. Upon
36 filing the petition, the clerk of the court shall set the hearing date and shall notify
37 the petitioner and the prosecuting attorney of the date of the hearing. Upon making
38 each of the following findings, the court may reduce or eliminate the prohibition,
39 impose conditions on reduction or elimination of the prohibition, or otherwise
40 grant relief from the prohibition as the court deems appropriate:

41 (A) Finds by a preponderance of the evidence that the petitioner is likely to use a
42 firearm in a safe and lawful manner.

1 (B) Finds that the petitioner is not within a prohibited class as specified in
2 subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not
3 presented with any credible evidence that the petitioner is a person described in
4 Section 8100 or 8103 of the Welfare and Institutions Code.

5 (C)(i) Finds that the petitioner does not have a previous conviction under this
6 subdivision no matter when the prior conviction occurred.

7 (ii) In making its decision, the court shall consider the petitioner's continued
8 employment, the interest of justice, any relevant evidence, and the totality of the
9 circumstances. The court shall require, as a condition of granting relief from the
10 prohibition under this section, that the petitioner agree to participate in counseling
11 as deemed appropriate by the court. Relief from the prohibition shall not relieve
12 any other person or entity from any liability that might otherwise be imposed. It is
13 the intent of the Legislature that courts exercise broad discretion in fashioning
14 appropriate relief under this paragraph in cases in which relief is warranted.
15 However, nothing in this paragraph shall be construed to require courts to grant
16 relief to any particular petitioner. It is the intent of the Legislature to permit
17 persons who were convicted of an offense specified in Section 273.5, 273.6, or
18 646.9 to seek relief from the prohibition imposed by this subdivision.

19 (3) Any person who is subject to the prohibition imposed by this subdivision
20 because of a conviction of an offense prior to that offense being added to
21 paragraph (1) may petition the court only once for relief from this prohibition. The
22 petition shall be filed with the court in which the petitioner was sentenced. If
23 possible, the matter shall be heard before the same judge that sentenced the
24 petitioner. Upon filing the petition, the clerk of the court shall set the hearing date
25 and notify the petitioner and the prosecuting attorney of the date of the hearing.
26 Upon making each of the following findings, the court may reduce or eliminate the
27 prohibition, impose conditions on reduction or elimination of the prohibition, or
28 otherwise grant relief from the prohibition as the court deems appropriate:

29 (A) Finds by a preponderance of the evidence that the petitioner is likely to use a
30 firearm in a safe and lawful manner.

31 (B) Finds that the petitioner is not within a prohibited class as specified in
32 subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not
33 presented with any credible evidence that the petitioner is a person described in
34 Section 8100 or 8103 of the Welfare and Institutions Code.

35 (C)(i) Finds that the petitioner does not have a previous conviction under this
36 subdivision, no matter when the prior conviction occurred.

37 (ii) In making its decision, the court may consider the interest of justice, any
38 relevant evidence, and the totality of the circumstances. It is the intent of the
39 Legislature that courts exercise broad discretion in fashioning appropriate relief
40 under this paragraph in cases in which relief is warranted. However, nothing in
41 this paragraph shall be construed to require courts to grant relief to any particular
42 petitioner.

1 (4) Law enforcement officials who enforce the prohibition specified in this
2 subdivision against a person who has been granted relief pursuant to paragraph (2)
3 or (3) shall be immune from any liability for false arrest arising from the
4 enforcement of this subdivision unless the person has in his or her possession a
5 certified copy of the court order that granted the person relief from the prohibition.
6 This immunity from liability shall not relieve any person or entity from any other
7 liability that might otherwise be imposed.

8 (d)(1) Any person who, as an express condition of probation, is prohibited or
9 restricted from owning, possessing, controlling, receiving, or purchasing a firearm
10 and who owns, purchases, receives, or has in his or her possession or under his or
11 her custody or control, any firearm but who is not subject to subdivision (a) or (c)
12 is guilty of a public offense, which shall be punishable by imprisonment in a
13 county jail not exceeding one year or in the state prison, by a fine not exceeding
14 one thousand dollars (\$1,000), or by both that imprisonment and fine. The court,
15 on forms provided by the Department of Justice, shall notify the department of
16 persons subject to this subdivision. The notice shall include a copy of the order of
17 probation and a copy of any minute order or abstract reflecting the order and
18 conditions of probation.

19 (2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at
20 the time judgment is imposed, provide on a form supplied by the Department of
21 Justice, a notice to the defendant prohibited by this section from owning,
22 purchasing, receiving, possessing or having under his or her custody or control,
23 any firearm. The notice shall inform the defendant of the prohibition regarding
24 firearms and include a form to facilitate the transfer of firearms. Failure to provide
25 the notice shall not be a defense to a violation of this section.

26 (e) Any person who (1) is alleged to have committed an offense listed in
27 subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense
28 described in subdivision (b) of Section 1203.073, any offense enumerated in
29 paragraph (1) of subdivision (c), or any offense described in subdivision (a) of
30 Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section
31 12034, and (2) is subsequently adjudged a ward of the juvenile court within the
32 meaning of Section 602 of the Welfare and Institutions Code because the person
33 committed an offense listed in subdivision (b) of Section 707 of the Welfare and
34 Institutions Code, an offense described in subdivision (b) of Section 1203.073, any
35 offense enumerated in paragraph (1) of subdivision (c), or any offense described in
36 subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision
37 (a) of Section 12034, shall not own, or have in his or her possession or under his
38 or her custody or control, any firearm until the age of 30 years. A violation of this
39 subdivision shall be punishable by imprisonment in a county jail not exceeding
40 one year or in the state prison, by a fine not exceeding one thousand dollars
41 (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms
42 prescribed by the Department of Justice, shall notify the department of persons
43 subject to this subdivision. Notwithstanding any other law, the forms required to

1 be submitted to the department pursuant to this subdivision may be used to
2 determine eligibility to acquire a firearm.

3 (f) Subdivision (a) shall not apply to a person who has been convicted of a
4 felony under the laws of the United States unless either of the following criteria is
5 satisfied:

6 (1) Conviction of a like offense under California law can only result in
7 imposition of felony punishment.

8 (2) The defendant was sentenced to a federal correctional facility for more than
9 30 days, or received a fine of more than one thousand dollars (\$1,000), or received
10 both punishments.

11 (g)(1) Every person who purchases or receives, or attempts to purchase or
12 receive, a firearm knowing that he or she is prohibited from doing so by a
13 temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8
14 of the Code of Civil Procedure, a protective order as defined in Section 6218 of
15 the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of
16 this code, or a protective order issued pursuant to Section 15657.03 of the Welfare
17 and Institutions Code, is guilty of a public offense, which shall be punishable by
18 imprisonment in a county jail not exceeding one year or in the state prison, by a
19 fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment
20 and fine.

21 (2) Every person who owns or possesses a firearm knowing that he or she is
22 prohibited from doing so by a temporary restraining order or injunction issued
23 pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective
24 order as defined in Section 6218 of the Family Code, a protective order issued
25 pursuant to Section 136.2 or 646.91 of this code, or a protective order issued
26 pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a
27 public offense, which shall be punishable by imprisonment in a county jail not
28 exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by
29 both that imprisonment and fine.

30 (3) The Judicial Council shall provide notice on all protective orders that the
31 respondent is prohibited from owning, possessing, purchasing, receiving, or
32 attempting to purchase or receive a firearm while the protective order is in effect.
33 The order shall also state that the firearm shall be relinquished to the local law
34 enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that
35 proof of surrender or sale shall be filed within a specified time of receipt of the
36 order. The order shall state the penalties for a violation of the prohibition. The
37 order shall also state on its face the expiration date for relinquishment.

38 (4) If probation is granted upon conviction of a violation of this subdivision, the
39 court shall impose probation consistent with Section 1203.097.

40 (h)(1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of
41 the following conditions are met:

42 (A) The person found the firearm or took the firearm from a person who was
43 committing a crime against him or her.

1 (B) The person possessed the firearm no longer than was necessary to deliver or
2 transport the firearm to a law enforcement agency for that agency's disposition
3 according to law.

4 (C) If the firearm was transported to a law enforcement agency, it was
5 transported in accordance with paragraph (18) of subdivision (a) of Section
6 12026.2.

7 (D) If the firearm is being transported to a law enforcement agency, the person
8 transporting the firearm has given prior notice to the law enforcement agency that
9 he or she is transporting the firearm to the law enforcement agency for disposition
10 according to law.

11 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of
12 fact shall determine whether the defendant was acting within the provisions of the
13 exemption created by this subdivision.

14 (3) The defendant has the burden of proving by a preponderance of the evidence
15 that he or she comes within the provisions of the exemption created by this
16 subdivision.

17 (i) Subject to available funding, the Attorney General, working with the Judicial
18 Council, the California Alliance Against Domestic Violence, prosecutors, and law
19 enforcement, probation, and parole officers, shall develop a protocol for the
20 implementation of the provisions of this section. The protocol shall be designed to
21 facilitate the enforcement of restrictions on firearm ownership, including
22 provisions for giving notice to defendants who are restricted, provisions for
23 informing those defendants of the procedures by which defendants shall dispose of
24 firearms when required to do so, provisions explaining how defendants shall
25 provide proof of the lawful disposition of firearms, and provisions explaining how
26 defendants may obtain possession of seized firearms when legally permitted to do
27 so pursuant to this section or any other provision of law. The protocol shall be
28 completed on or before January 1, 2005.

29  **Staff Note.** The text of this provision reflects an amendment made by SB 1302 (Cogdill). See
30 2008 Cal. Stat. ch. 599.

31 **Penal Code § 12021.1. Firearm possession or control by person convicted of violent felony**

32 12021.1. (a) Notwithstanding subdivision (a) of Section 12021, any person who
33 has been previously convicted of any of the offenses listed in subdivision (b) and
34 who owns or has in his or her possession or under his or her custody or control any
35 firearm is guilty of a felony. A dismissal of an accusatory pleading pursuant to
36 Section 1203.4a involving an offense set forth in subdivision (b) does not affect
37 the finding of a previous conviction. If probation is granted, or if the imposition or
38 execution of sentence is suspended, it shall be a condition of the probation or
39 suspension that the defendant serve at least six months in a county jail.

40 (b) As used in this section, a violent offense includes any of the following:

41 (1) Murder or voluntary manslaughter.

42 (2) Mayhem.

- 1 (3) Rape.
- 2 (4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- 3 (5) Oral copulation by force, violence, duress, menace, or threat of great bodily
- 4 harm.
- 5 (6) Lewd acts on a child under the age of 14 years.
- 6 (7) Any felony punishable by death or imprisonment in the state prison for life.
- 7 (8) Any other felony in which the defendant inflicts great bodily injury on any
- 8 person, other than an accomplice, that has been charged and proven, or any felony
- 9 in which the defendant uses a firearm which use has been charged and proven.
- 10 (9) Attempted murder.
- 11 (10) Assault with intent to commit rape or robbery.
- 12 (11) Assault with a deadly weapon or instrument on a peace
- 13 officer.
- 14 (12) Assault by a life prisoner on a noninmate.
- 15 (13) Assault with a deadly weapon by an inmate.
- 16 (14) Arson.
- 17 (15) Exploding a destructive device or any explosive with intent to injure.
- 18 (16) Exploding a destructive device or any explosive causing great bodily injury.
- 19 (17) Exploding a destructive device or any explosive with intent to murder.
- 20 (18) Robbery.
- 21 (19) Kidnapping.
- 22 (20) Taking of a hostage by an inmate of a state prison.
- 23 (21) Attempt to commit a felony punishable by death or imprisonment in the
- 24 state prison for life.
- 25 (22) Any felony in which the defendant personally used a dangerous or deadly
- 26 weapon.
- 27 (23) Escape from a state prison by use of force or violence.
- 28 (24) Assault with a deadly weapon or force likely to produce great bodily injury.
- 29 (25) Any felony violation of Section 186.22.
- 30 (26) Any attempt to commit a crime listed in this subdivision other than an
- 31 assault.
- 32 (27) Any offense enumerated in subdivision (a), (b), or (d) of Section 12001.6.
- 33 (28) Carjacking.
- 34 (29) Any offense enumerated in subdivision (c) of Section 12001.6 if the person
- 35 has two or more convictions for violating paragraph (2) of subdivision (a) of
- 36 Section 417.
- 37 (c) Any person previously convicted of any of the offenses listed in subdivision
- 38 (b) which conviction results from certification by the juvenile court for
- 39 prosecution as an adult in adult court under the provisions of Section 707 of the
- 40 Welfare and Institutions Code, who owns or has in his or her possession or under
- 41 his or her custody or control any firearm is guilty of a felony. If probation is
- 42 granted, or if the imposition or execution of sentence is suspended, it shall be a

1 condition of the probation or suspension that the defendant serve at least six
2 months in a county jail.

3 (d) The court shall apply the minimum sentence as specified in subdivisions (a)
4 and (c) except in unusual cases where the interests of justice would best be served
5 by granting probation or suspending the imposition or execution of sentence
6 without the imprisonment required by subdivisions (a) and (c), or by granting
7 probation or suspending the imposition or execution of sentence with conditions
8 other than those set forth in subdivisions (a) and (c), in which case the court shall
9 specify on the record and shall enter on the minutes the circumstances indicating
10 that the interests of justice would best be served by the disposition.

11 **Penal Code § 12021.3. Return or transfer of firearm in custody of court or law enforcement**
12 **agency**

13 12021.3. (a)(1) Any person who claims title to any firearm that is in the custody
14 or control of a court or law enforcement agency and who wishes to have the
15 firearm returned to him or her shall make application for a determination by the
16 Department of Justice as to whether he or she is eligible to possess a firearm. The
17 application shall include the following:

18 (A) The applicant's name, date and place of birth, gender, telephone number,
19 and complete address.

20 (B) Whether the applicant is a United States citizen. If the applicant is not a
21 United States citizen, he or she shall also provide his or her country of citizenship
22 and his or her alien registration or I-94 number.

23 (C) If the firearm is a handgun, the firearm's make, model, caliber, barrel length,
24 handgun type, country of origin, and serial number.

25 (D) For residents of California, the applicant's valid California driver's license
26 number or valid California identification card number issued by the Department of
27 Motor Vehicles. For nonresidents of California, a copy of the applicant's military
28 identification with orders indicating that the individual is stationed in California,
29 or a copy of the applicant's valid driver's license from the state of residence, or a
30 copy of the applicant's state identification card from the state of residence. Copies
31 of the documents provided by non-California residents shall be notarized.

32 (E) The name of the court or law enforcement agency holding the firearm.

33 (F) The signature of the applicant and the date of signature.

34 (G) Any person furnishing a fictitious name or address or knowingly furnishing
35 any incorrect information or knowingly omitting any information required to be
36 provided for the application, including any notarized information pursuant to
37 subparagraph (D) of paragraph (1) of subdivision (a) shall be guilty of a
38 misdemeanor.

39 (2) A person who owns a firearm that is in the custody of a court or law
40 enforcement agency and who does not wish to obtain possession of the firearm,
41 and the firearm is an otherwise legal firearm, and the person otherwise has right to

1 title of the firearm, shall be entitled to sell or transfer title of the firearm to a
2 licensed dealer as defined in Section 12071.

3 (3) Any person furnishing a fictitious name or address, or knowingly furnishing
4 any incorrect information or knowingly omitting any information required to be
5 provided for the application, including any notarized information pursuant to
6 subparagraph (D) of paragraph (1) of subdivision (a) is punishable as a
7 misdemeanor.

8 (b) No law enforcement agency or court that has taken custody of any firearm
9 may return the firearm to any individual unless the following requirements are
10 satisfied:

11 (1) That individual presents to the agency or court notification of a
12 determination by the department pursuant to subdivision (e) that the person is
13 eligible to possess firearms.

14 (2) If the agency or court has direct access to the Automated Firearms System,
15 the agency or court has verified that the firearm is not listed as stolen pursuant to
16 Section 11108, and that the firearm has been recorded in the Automated Firearms
17 System in the name of the individual who seeks its return.

18 (3) If the firearm has been reported lost or stolen pursuant to Section 11108, a
19 law enforcement agency shall notify the owner or person entitled to possession
20 pursuant to Section 11108.5. However, that person shall provide proof of
21 eligibility to possess a firearm pursuant to subdivision (e). Nothing in this
22 subdivision shall prevent the local law enforcement agency from charging the
23 rightful owner or person entitled to possession of the firearm the fees described in
24 subdivision (j). However, individuals who are applying for a background check to
25 retrieve a firearm that comes into the custody or control of the court or law
26 enforcement agency pursuant to subdivision (a) shall be exempt from the fees in
27 subdivision (c) provided that the court or agency determines the firearm was
28 reported stolen to a law enforcement agency prior to the date the firearm came into
29 custody or control of the court or law enforcement agency or within five business
30 days of the firearm being stolen from its owner. The court or agency shall notify
31 the Department of Justice of this fee exemption in a manner prescribed by the
32 department.

33 (c) The Department of Justice shall establish a fee of twenty dollars (\$20) per
34 request for return of a firearm, plus a three-dollar (\$3) charge for each additional
35 handgun being processed as part of the request to return a firearm, to cover its
36 costs for processing firearm clearance determinations submitted pursuant to this
37 section. The fees shall be deposited into the Dealers' Record of Sale Special
38 Account. The department may increase the fee by using the California Consumer
39 Price Index as compiled and reported by the California Department of Industrial
40 Relations to determine an annual rate of increase. Any fee increase shall be
41 rounded to the nearest dollar.

42 (d) When the Department of Justice receives a completed application pursuant to
43 subdivision (a) accompanied with the fee required pursuant to subdivision (c), it

1 shall conduct an eligibility check of the applicant to determine whether the
2 applicant is eligible to possess firearms.

3 (e)(1) If the department determines that the applicant is eligible to possess the
4 firearm, the department shall provide the applicant with written notification that
5 includes the following:

6 (A) The identity of the applicant.

7 (B) A statement that the applicant is eligible to possess a firearm.

8 (C) If the firearm is a handgun, a description of the handgun by make, model,
9 and serial number.

10 (2) If the firearm is a handgun, the department shall enter a record of the
11 handgun into the Automated Firearms System.

12 (3) The department shall have 30 days from the date of receipt to complete the
13 background check unless delayed by circumstances beyond the control of the
14 department. The applicant may contact the department to inquire about the reason
15 for the delay.

16 (f) If the department denies the application, and the firearm is an otherwise legal
17 firearm, the department shall notify the applicant of the denial and provide a form
18 for the applicant to use to sell or transfer the firearm to a licensed dealer as defined
19 in [Section 12071](#). The applicant may contact the department to inquire about the
20 reason for the denial.

21 (g) Notwithstanding any other provision of law, no law enforcement agency or
22 court shall be required to retain a firearm for more than 180 days after the owner
23 of the firearm has been notified by the court or law enforcement agency that the
24 firearm has been made available for return. An unclaimed firearm may be
25 disposed of after the 180-day period has expired.

26 (h) Notwithstanding [Section 11106](#), the department may retain personal
27 information about an applicant in connection with a claim for a firearm that is not
28 a handgun to allow for law enforcement confirmation of compliance with [this](#)
29 [section](#). The information retained may include personal identifying information
30 regarding the individual applying for the clearance, but may not include
31 information that identifies any particular firearm that is not a handgun.

32 (i)(1) If a law enforcement agency determines that the applicant is the legal
33 owner of any firearm deposited with the law enforcement agency and is prohibited
34 from possessing any firearm and the firearm is an otherwise legal firearm, the
35 applicant shall be entitled to sell or transfer the firearm to a licensed dealer as
36 defined in [Section 12071](#).

37 (2) If the firearm has been lost or stolen, the firearm shall be restored to the
38 lawful owner pursuant to [Section 11108.5](#) upon his or her identification of the
39 firearm and proof of ownership, and proof of eligibility to possess a firearm
40 pursuant to [subdivision \(e\)](#).

41 Nothing in [this subdivision](#) shall prevent the local law enforcement agency from
42 charging the rightful owner of the firearm the fees described in [subdivision \(j\)](#).

1 (3) Subdivision (a) of Section 12070 shall not apply to deliveries, transfers, or
2 returns of firearms made by a court or a law enforcement agency pursuant to this
3 section.

4 (4) Subdivision (d) of Section 12072 shall not apply to deliveries, transfers, or
5 returns of firearms made pursuant to this section.

6 (j)(1) A city, county, or city and county, or a state agency may adopt a
7 regulation, ordinance, or resolution imposing a charge equal to its administrative
8 costs relating to the seizure, impounding, storage, or release of firearms. The fees
9 shall not exceed the actual costs incurred for the expenses directly related to taking
10 possession of a firearm, storing the firearm, and surrendering possession of the
11 firearm to a licensed firearms dealer or to the owner. Those administrative costs
12 may be waived by the local or state agency upon verifiable proof that the firearm
13 was reported stolen at the time the firearm came into the custody or control of the
14 law enforcement agency.

15 (2) The following apply to any charges imposed for administrative costs
16 pursuant to this subdivision:

17 (A) The charges shall only be imposed on the person claiming title to the
18 firearms.

19 (B) Any charges shall be collected by the local or state authority only from the
20 person claiming title to the firearm.

21 (C) The charges shall be in addition to any other charges authorized or imposed
22 pursuant to this code.

23 (D) No charge may be imposed for any hearing or appeal relating to the
24 removal, impound, storage, or release of a firearm unless that hearing or appeal
25 was requested in writing by the legal owner of the firearm. In addition, the charge
26 may be imposed only upon the person requesting that hearing or appeal.

27 (3) No costs for any hearing or appeal related to the release of a firearm shall be
28 charged to the legal owner who redeems the firearm unless the legal owner
29 voluntarily requests the post storage hearing or appeal. No city, county, city and
30 county, or state agency shall require a legal owner to request a poststorage hearing
31 as a requirement for release of the firearm to the legal owner.

32 (k) In a proceeding for the return of a firearm seized and not returned pursuant
33 to this section, where the defendant or cross-defendant is a law enforcement
34 agency, the court shall award reasonable attorney's fees to the prevailing party.

35 **Penal Code § 12021.5. Street gang crimes**

36 12021.5. (a) Every person who carries a loaded or unloaded firearm on his or her
37 person, or in a vehicle, during the commission or attempted commission of any
38 street gang crimes described in subdivision (a) or (b) of Section 186.22, shall,
39 upon conviction of the felony or attempted felony, be punished by an additional
40 term of imprisonment in the state prison for one, two, or three years in the court's
41 discretion. The court shall impose the middle term unless there are circumstances

1 in aggravation or mitigation. The court shall state the reasons for its enhancement
2 choice on the record at the time of sentence.

3 (b) Every person who carries a loaded or unloaded firearm together with a
4 detachable shotgun magazine, a detachable pistol magazine, a detachable
5 magazine, or a belt-feeding device on his or her person, or in a vehicle, during the
6 commission or attempted commission of any street gang crimes described in
7 subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or
8 attempted felony, be punished by an additional term of imprisonment in the state
9 prison for two, three, or four years in the court's discretion. The court shall impose
10 the middle term unless there are circumstances in aggravation or mitigation. The
11 court shall state the reasons for its enhancement choice on the record at the time of
12 sentence.

13 (c) As used in this section, the following definitions shall apply:

14 (1) **“Detachable magazine”** means a device that is designed or redesigned to do
15 all of the following:

16 (A) To be attached to a rifle that is designed or redesigned to fire ammunition.

17 (B) To be attached to, and detached from, a rifle that is designed or redesigned
18 to fire ammunition.

19 (C) To feed ammunition continuously and directly into the loading mechanism
20 of a rifle that is designed or redesigned to fire ammunition.

21 (2) **“Detachable pistol magazine”** means a device that is designed or
22 redesigned to do all of the following:

23 (A) To be attached to a semiautomatic firearm that is not a rifle or shotgun that
24 is designed or redesigned to fire ammunition.

25 (B) To be attached to, and detached from, a firearm that is not a rifle or shotgun
26 that is designed or redesigned to fire ammunition.

27 (C) To feed ammunition continuously and directly into the loading mechanism
28 of a firearm that is not a rifle or a shotgun that is designed or redesigned to fire
29 ammunition.

30 (3) **“Detachable shotgun magazine”** means a device that is designed or
31 redesigned to do all of the following:

32 (A) To be attached to a firearm that is designed or redesigned to fire a fixed
33 shotgun shell through a smooth or rifled bore.

34 (B) To be attached to, and detached from, a firearm that is designed or
35 redesigned to fire a fixed shotgun shell through a smooth bore.

36 (C) To feed fixed shotgun shells continuously and directly into the loading
37 mechanism of a firearm that is designed or redesigned to fire a fixed shotgun shell.

38 (4) **“Belt-feeding device”** means a device that is designed or designed to
39 continuously feed ammunition into the loading mechanism of a machinegun or a
40 semiautomatic firearm.

41 (5) **“Rifle”** shall have the same meaning as specified in paragraph (20) of
42 subdivision (c) of Section 12020.

1 (6) “Shotgun” shall have the same meaning as specified in paragraph (21) of
2 subdivision (c) of Section 12020.

3 **Penal Code § 12022. Armed with firearm in commission of felony**

4 12022. (a)(1) Except as provided in subdivisions (c) and (d), any person who is
5 armed with a firearm in the commission of a felony or attempted felony shall be
6 punished by an additional and consecutive term of imprisonment in the state
7 prison for one year, unless the arming is an element of that offense. This additional
8 term shall apply to any person who is a principal in the commission of a felony or
9 attempted felony if one or more of the principals is armed with a firearm, whether
10 or not the person is personally armed with a firearm.

11 (2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if
12 the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1,
13 or a machinegun, as defined in Section 12200, or a .50 BMG rifle, as defined in
14 Section 12278, the additional and consecutive term described in this subdivision
15 shall be three years whether or not the arming is an element of the offense of
16 which the person was convicted. The additional term provided in this paragraph
17 shall apply to any person who is a principal in the commission of a felony or
18 attempted felony if one or more of the principals is armed with an assault weapon
19 or machinegun, or a .50 BMG rifle, whether or not the person is personally armed
20 with an assault weapon or machinegun, or a .50 BMG rifle.

21 (b)(1) Any person who personally uses a deadly or dangerous weapon in the
22 commission of a felony or attempted felony shall be punished by an additional and
23 consecutive term of imprisonment in the state prison for one year, unless use of a
24 deadly or dangerous weapon is an element of that offense.

25 (2) If the person described in paragraph (1) has been convicted of carjacking or
26 attempted carjacking, the additional term shall be one, two, or three years.

27 (3) When a person is found to have personally used a deadly or dangerous
28 weapon in the commission of a felony or attempted felony as provided in this
29 subdivision and the weapon is owned by that person, the court shall order that the
30 weapon be deemed a nuisance and disposed of in the manner provided in Section
31 12028.

32 (c) Notwithstanding the enhancement set forth in subdivision (a), any person
33 who is personally armed with a firearm in the commission of a violation or
34 attempted violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378,
35 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall be
36 punished by an additional and consecutive term of imprisonment in the state
37 prison for three, four, or five years.

38 (d) Notwithstanding the enhancement set forth in subdivision (a), any person
39 who is not personally armed with a firearm who, knowing that another principal is
40 personally armed with a firearm, is a principal in the commission of an offense or
41 attempted offense specified in subdivision (c), shall be punished by an additional

1 and consecutive term of imprisonment in the state prison for one, two, or three
2 years.

3 (e) For purposes of imposing an enhancement under **Section 1170.1**, the
4 enhancements under **this section** shall count as one, single enhancement.

5 (f) Notwithstanding any other provision of law, the court may strike the
6 additional punishment for the enhancements provided in **subdivision (c) or (d)** in
7 an unusual case where the interests of justice would best be served, if the court
8 specifies on the record and enters into the minutes the circumstances indicating
9 that the interests of justice would best be served by that disposition.

10 **Penal Code § 12022.1. Felony committed during release from custody on bail or on own**
11 **recognizance**

12 12022.1. (a) For the purposes of **this section** only:

13 (1) **“Primary offense”** means a felony offense for which a person has been
14 released from custody on bail or on his or her own recognizance prior to the
15 judgment becoming final, including the disposition of any appeal, or for which
16 release on bail or his or her own recognizance has been revoked. In cases where
17 the court has granted a stay of execution of a county jail commitment or state
18 prison commitment, **“primary offense”** also means a felony offense for which a
19 person is out of custody during the period of time between the pronouncement of
20 judgment and the time the person actually surrenders into custody or is otherwise
21 returned to custody.

22 (2) **“Secondary offense”** means a felony offense alleged to have been
23 committed while the person is released from custody for a primary offense.

24 (b) Any person arrested for a secondary offense which was alleged to have been
25 committed while that person was released from custody on a primary offense shall
26 be subject to a penalty enhancement of an additional two years in state prison
27 which shall be served consecutive to any other term imposed by the court.

28 (c) The enhancement allegation provided in **subdivision (b)** shall be pleaded in
29 the information or indictment which alleges the secondary offense, or in the
30 information or indictment of the primary offense if a conviction has already
31 occurred in the secondary offense, and shall be proved as provided by law. The
32 enhancement allegation may be pleaded in a complaint but need not be proved at
33 the preliminary hearing or grand jury hearing.

34 (d) Whenever there is a conviction for the secondary offense and the
35 enhancement is proved, and the person is sentenced on the secondary offense prior
36 to the conviction of the primary offense, the imposition of the enhancement shall
37 be stayed pending imposition of the sentence for the primary offense. The stay
38 shall be lifted by the court hearing the primary offense at the time of sentencing
39 for that offense and shall be recorded in the abstract of judgment. If the person is
40 acquitted of the primary offense the stay shall be permanent.

41 (e) If the person is convicted of a felony for the primary offense, is sentenced to
42 state prison for the primary offense, and is convicted of a felony for the secondary

1 offense, any state prison sentence for the secondary offense shall be consecutive to
2 the primary sentence.

3 (f) If the person is convicted of a felony for the primary offense, is granted
4 probation for the primary offense, and is convicted of a felony for the secondary
5 offense, any state prison sentence for the secondary offense shall be enhanced as
6 provided in subdivision (b).

7 (g) If the primary offense conviction is reversed on appeal, the enhancement
8 shall be suspended pending retrial of that felony. Upon retrial and reconviction,
9 the enhancement shall be reimposed. If the person is no longer in custody for the
10 secondary offense upon reconviction of the primary offense, the court may, at its
11 discretion, reimpose the enhancement and order him or her recommitted to
12 custody.

13 **Penal Code § 12022.2. Possession of armor-piercing ammunition or body vest**

14 12022.2. (a) Any person who, while armed with a firearm in the commission or
15 attempted commission of any felony, has in his or her immediate possession
16 ammunition for the firearm designed primarily to penetrate metal or armor, shall
17 upon conviction of that felony or attempted felony, in addition and consecutive to
18 the punishment prescribed for the felony or attempted felony, be punished by an
19 additional term of 3, 4, or 10 years. The court shall order the middle term unless
20 there are circumstances in aggravation or mitigation. The court shall state the
21 reasons for its enhancement choice on the record at the time of the sentence.

22 (b) Any person who wears a body vest in the commission or attempted
23 commission of a violent offense, as defined in subdivision (b) of Section 12021.1,
24 shall, upon conviction of that felony or attempted felony, in addition and
25 consecutive to the punishment prescribed for the felony or attempted felony of
26 which he or she has been convicted, be punished by an additional term of one,
27 two, or five years. The court shall order the middle term unless there are
28 circumstances in aggravation or mitigation. The court shall state the reasons for its
29 enhancement choice on the record at the time of the sentence.

30 (c) As used in this section, **“body vest”** means any bullet-resistant material
31 intended to provide ballistic and trauma protection for the wearer.

32 **Penal Code § 12022.3. Use or possession of weapons in commission of certain sex offenses**

33 12022.3. For each violation of Section 220 involving a specified sexual offense,
34 or for each violation or attempted violation of Section 261, 262, 264.1, 286, 288,
35 288a, or 289, and in addition to the sentence provided, any person shall receive the
36 following:

37 (a) A 3-, 4-, or 10-year enhancement if the person uses a firearm or a deadly
38 weapon in the commission of the violation.

39 (b) A one-, two-, or five-year enhancement if the person is armed with a firearm
40 or a deadly weapon.

1 **Staff Note.** The text of this provision reflects an amendment made by SB 1302 (Cogdill). See
2 2008 Cal. Stat. ch. 599.

3 **Penal Code § 12022.4. Furnishing firearm in furtherance of felony**

4 12022.4. Any person who, during the commission or attempted commission of a
5 felony, furnishes or offers to furnish a firearm to another for the purpose of aiding,
6 abetting, or enabling that person or any other person to commit a felony shall, in
7 addition and consecutive to the punishment prescribed by the felony or attempted
8 felony of which the person has been convicted, be punished by an additional term
9 of one, two, or three years in the state prison. The court shall order the middle
10 term unless there are circumstances in aggravation or mitigation. The court shall
11 state the reasons for its enhancement choice on the record at the time of the
12 sentence. The additional term provided in **this section** shall not be imposed unless
13 the fact of the furnishing is charged in the accusatory pleading and admitted or
14 found to be true by the trier of fact.

15 **Penal Code § 12022.5. Use of firearm in commission of felony**

16 12022.5. (a) Except as provided in **subdivision (b)**, any person who personally
17 uses a firearm in the commission of a felony or attempted felony shall be punished
18 by an additional and consecutive term of imprisonment in the state prison for 3, 4,
19 or 10 years, unless use of a firearm is an element of that offense.

20 (b) Notwithstanding **subdivision (a)**, any person who personally uses an assault
21 weapon, as specified in **Section 12276** or **Section 12276.1**, or a machinegun, as
22 defined in **Section 12200**, in the commission of a felony or attempted felony, shall
23 be punished by an additional and consecutive term of imprisonment in the state
24 prison for 5, 6, or 10 years.

25 (c) Notwithstanding **Section 1385** or any other provisions of law, the court shall
26 not strike an allegation under **this section** or a finding bringing a person within the
27 provisions of **this section**.

28 (d) Notwithstanding the limitation in **subdivision (a)** relating to being an element
29 of the offense, the additional term provided by **this section** shall be imposed for
30 any violation of **Section 245** if a firearm is used, or for murder if the killing is
31 perpetrated by means of shooting a firearm from a motor vehicle, intentionally at
32 another person outside of the vehicle with the intent to inflict great bodily injury or
33 death.

34 (e) When a person is found to have personally used a firearm, an assault
35 weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or
36 attempted felony as provided in **this section** and the firearm, assault weapon,
37 machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that
38 the firearm be deemed a nuisance and disposed of in the manner provided in
39 **Section 12028**.

40 (f) For purposes of imposing an enhancement under **Section 1170.1**, the
41 enhancements under **this section** shall count as one, single enhancement.

1 **Penal Code § 12022.53. Use of weapon in commission of specified violent offenses**

2 12022.53. (a) This section applies to the following felonies:

3 (1) Section 187 (murder).

4 (2) Section 203 or 205 (mayhem).

5 (3) Section 207, 209, or 209.5 (kidnapping).

6 (4) Section 211 (robbery).

7 (5) Section 215 (carjacking).

8 (6) Section 220 (assault with intent to commit a specified felony).

9 (7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or
10 firefighter).

11 (8) Section 261 or 262 (rape).

12 (9) Section 264.1 (rape or sexual penetration in concert).

13 (10) Section 286 (sodomy).

14 (11) Section 288 or 288.5 (lewd act on a child).

15 (12) Section 288a (oral copulation).

16 (13) Section 289 (sexual penetration).

17 (14) Section 4500 (assault by a life prisoner).

18 (15) Section 4501 (assault by a prisoner).

19 (16) Section 4503 (holding a hostage by a prisoner).

20 (17) Any felony punishable by death or imprisonment in the state prison for life.

21 (18) Any attempt to commit a crime listed in this subdivision other than an
22 assault.

23 (b) Notwithstanding any other provision of law, any person who, in the
24 commission of a felony specified in subdivision (a), personally uses a firearm,
25 shall be punished by an additional and consecutive term of imprisonment in the
26 state prison for 10 years. The firearm need not be operable or loaded for this
27 enhancement to apply.

28 (c) Notwithstanding any other provision of law, any person who, in the
29 commission of a felony specified in subdivision (a), personally and intentionally
30 discharges a firearm, shall be punished by an additional and consecutive term of
31 imprisonment in the state prison for 20 years.

32 (d) Notwithstanding any other provision of law, any person who, in the
33 commission of a felony specified in subdivision (a), Section 246, or subdivision
34 (c) or (d) of Section 12034, personally and intentionally discharges a firearm and
35 proximately causes great bodily injury, as defined in Section 12022.7, or death, to
36 any person other than an accomplice, shall be punished by an additional and
37 consecutive term of imprisonment in the state prison for 25 years to life.

38 (e)(1) The enhancements provided in this section shall apply to any person who
39 is a principal in the commission of an offense if both of the following are pled and
40 proved:

41 (A) The person violated subdivision (b) of Section 186.22.

42 (B) Any principal in the offense committed any act specified in subdivision (b),
43 (c), or (d).

1 (2) An enhancement for participation in a criminal street gang pursuant to
2 Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be
3 imposed on a person in addition to an enhancement imposed pursuant to this
4 subdivision, unless the person personally used or personally discharged a firearm
5 in the commission of the offense.

6 (f) Only one additional term of imprisonment under this section shall be
7 imposed per person for each crime. If more than one enhancement per person is
8 found true under this section, the court shall impose upon that person the
9 enhancement that provides the longest term of imprisonment. An enhancement
10 involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4,
11 12022.5, or 12022.55 shall not be imposed on a person in addition to an
12 enhancement imposed pursuant to this section. An enhancement for great bodily
13 injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on
14 a person in addition to an enhancement imposed pursuant to subdivision (d).

15 (g) Notwithstanding any other provision of law, probation shall not be granted
16 to, nor shall the execution or imposition of sentence be suspended for, any person
17 found to come within the provisions of this section.

18 (h) Notwithstanding Section 1385 or any other provision of law, the court shall
19 not strike an allegation under this section or a finding bringing a person within the
20 provisions of this section.

21 (i) The total amount of credits awarded pursuant to Article 2.5 (commencing
22 with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or
23 any other provision of law shall not exceed 15 percent of the total term of
24 imprisonment imposed on a defendant upon whom a sentence is imposed pursuant
25 to this section.

26 (j) For the penalties in this section to apply, the existence of any fact required
27 under subdivision (b), (c), or (d) shall be alleged in the accusatory pleading and
28 either admitted by the defendant in open court or found to be true by the trier of
29 fact. When an enhancement specified in this section has been admitted or found to
30 be true, the court shall impose punishment for that enhancement pursuant to this
31 section rather than imposing punishment authorized under any other provision of
32 law, unless another enhancement provides for a greater penalty or a longer term of
33 imprisonment.

34 (k) When a person is found to have used or discharged a firearm in the
35 commission of an offense that includes an allegation pursuant to this section and
36 the firearm is owned by that person, a coparticipant, or a coconspirator, the court
37 shall order that the firearm be deemed a nuisance and disposed of in the manner
38 provided in Section 12028.

39 (l) The enhancements specified in this section shall not apply to the lawful use
40 or discharge of a firearm by a public officer, as provided in Section 196, or by any
41 person in lawful self-defense, lawful defense of another, or lawful defense of
42 property, as provided in Sections 197, 198, and 198.5.

1 **Penal Code § 12022.55. Discharge of firearm from motor vehicle**

2 12022.55. Notwithstanding **Section 12022.5**, any person who, with the intent to
3 inflict great bodily injury or death, inflicts great bodily injury, as defined in
4 **Section 12022.7**, or causes the death of a person, other than an occupant of a
5 motor vehicle, as a result of discharging a firearm from a motor vehicle in the
6 commission of a felony or attempted felony, shall be punished by an additional
7 and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

8 **Penal Code § 12022.6. Taking, damage, or destruction of property during commission or**
9 **attempted commission of felony**

10 12022.6. (a) When any person takes, damages, or destroys any property in the
11 commission or attempted commission of a felony, with the intent to cause that
12 taking, damage, or destruction, the court shall impose an additional term as
13 follows:

14 (1) If the loss exceeds sixty-five thousand dollars (\$65,000), the court, in
15 addition and consecutive to the punishment prescribed for the felony or attempted
16 felony of which the defendant has been convicted, shall impose an additional term
17 of one year.

18 (2) If the loss exceeds two hundred thousand dollars (\$200,000), the court, in
19 addition and consecutive to the punishment prescribed for the felony or attempted
20 felony of which the defendant has been convicted, shall impose an additional term
21 of two years.

22 (3) If the loss exceeds one million three hundred thousand dollars (\$1,300,000),
23 the court, in addition and consecutive to the punishment prescribed for the felony
24 or attempted felony of which the defendant has been convicted, shall impose an
25 additional term of three years.

26 (4) If the loss exceeds three million two hundred thousand dollars (\$3,200,000),
27 the court, in addition and consecutive to the punishment prescribed for the felony
28 or attempted felony of which the defendant has been convicted, shall impose an
29 additional term of four years.

30 (b) In any accusatory pleading involving multiple charges of taking, damage, or
31 destruction, the additional terms provided in **this section** may be imposed if the
32 aggregate losses to the victims from all felonies exceed the amounts specified in
33 **this section** and arise from a common scheme or plan. All pleadings under **this**
34 **section** shall remain subject to the rules of joinder and severance stated in **Section**
35 **954**.

36 (c) The additional terms provided in **this section** shall not be imposed unless the
37 facts of the taking, damage, or destruction in excess of the amounts provided in
38 **this section** are charged in the accusatory pleading and admitted or found to be
39 true by the trier of fact.

40 (d) **This section** applies to, but is not limited to, property taken, damaged, or
41 destroyed in violation of **Section 502** or **subdivision (b) of Section 502.7**. **This**

1 section shall also apply to applicable prosecutions for a violation of Section 350,
2 653h, 653s, or 653w.

3 (e) For the purposes of this section, the term “loss” has the following meanings:

4 (1) When counterfeit items of computer software are manufactured or possessed
5 for sale, the “loss” from the counterfeiting of those items shall be equivalent to the
6 retail price or fair market value of the true items that are counterfeited.

7 (2) When counterfeited but unassembled components of computer software
8 packages are recovered, including, but not limited to, counterfeited computer
9 diskettes, instruction manuals, or licensing envelopes, the “loss” from the
10 counterfeiting of those components of computer software packages shall be
11 equivalent to the retail price or fair market value of the number of completed
12 computer software packages that could have been made from those components.

13 (f) It is the intent of the Legislature that the provisions of this section be
14 reviewed within 10 years to consider the effects of inflation on the additional
15 terms imposed. For that reason this section shall remain in effect only until
16 January 1, 2018, and as of that date is repealed unless a later enacted statute,
17 which is enacted before January 1, 2018, deletes or extends that date.

18 **Penal Code § 12022.7. Infliction of great bodily injury**

19 12022.7. (a) Any person who personally inflicts great bodily injury on any
20 person other than an accomplice in the commission of a felony or attempted felony
21 shall be punished by an additional and consecutive term of imprisonment in the
22 state prison for three years.

23 (b) Any person who personally inflicts great bodily injury on any person other
24 than an accomplice in the commission of a felony or attempted felony which
25 causes the victim to become comatose due to brain injury or to suffer paralysis of
26 a permanent nature, shall be punished by an additional and consecutive term of
27 imprisonment in the state prison for five years. As used in this subdivision,
28 “paralysis” means a major or complete loss of motor function resulting from
29 injury to the nervous system or to a muscular mechanism.

30 (c) Any person who personally inflicts great bodily injury on a person who is 70
31 years of age or older, other than an accomplice, in the commission of a felony or
32 attempted felony shall be punished by an additional and consecutive term of
33 imprisonment in the state prison for five years.

34 (d) Any person who personally inflicts great bodily injury on a child under the
35 age of five years in the commission of a felony or attempted felony shall be
36 punished by an additional and consecutive term of imprisonment in the state
37 prison for four, five, or six years.

38 (e) Any person who personally inflicts great bodily injury under circumstances
39 involving domestic violence in the commission of a felony or attempted felony
40 shall be punished by an additional and consecutive term of imprisonment in the
41 state prison for three, four, or five years. As used in this subdivision, “domestic
42 violence” has the meaning provided in subdivision (b) of Section 13700.

1 (f) As used in this section, “great bodily injury” means a significant or
2 substantial physical injury.

3 (g) This section shall not apply to murder or manslaughter or a violation of
4 Section 451 or 452. Subdivisions (a), (b), (c), and (d) shall not apply if infliction
5 of great bodily injury is an element of the offense.

6 (h) The court shall impose the additional terms of imprisonment under either
7 subdivision (a), (b), (c), or (d), but may not impose more than one of those terms
8 for the same offense.

9 **Penal Code § 12022.75. Administering controlled substance against victim’s will**

10 12022.75. (a) Except as provided in subdivision (b), any person who, for the
11 purpose of committing a felony, administers by injection, inhalation, ingestion, or
12 any other means, any controlled substance listed in Section 11054, 11055, 11056,
13 11057, or 11058 of the Health and Safety Code, against the victim’s will by means
14 of force, violence, or fear of immediate and unlawful bodily injury to the victim or
15 another person, shall, in addition and consecutive to the penalty provided for the
16 felony or attempted felony of which he or she has been convicted, be punished by
17 an additional term of three years.

18 (b)(1) Any person who, in the commission or attempted commission of any
19 offense specified in paragraph (2), administers any controlled substance listed in
20 Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code to
21 the victim shall be punished by an additional and consecutive term of
22 imprisonment in the state prison for five years.

23 (2) This subdivision shall apply to the following offenses:

24 (A) Rape, in violation of paragraph (3) or (4) of subdivision (a) of Section 261.

25 (B) Sodomy, in violation of subdivision (f) or (i) of Section 286.

26 (C) Oral copulation, in violation of subdivision (f) or (i) of Section 288a.

27 (D) Sexual penetration, in violation of subdivision (d) or (e) of Section 289.

28 (E) Any offense specified in subdivision (c) of Section 667.61.

29 **Penal Code § 12022.8. Infliction of great bodily injury in commission of certain sex offenses**

30 12022.8. Any person who inflicts great bodily injury, as defined in Section
31 12022.7, on any victim in a violation of Section 220 involving a specified sexual
32 offense, or a violation or attempted violation of paragraph (2), (3), or (6) of
33 subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section
34 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289,
35 or sodomy or oral copulation by force, violence, duress, menace, or fear of
36 immediate and unlawful bodily injury on the victim or another person as provided
37 in Section 286 or 288a shall receive a five-year enhancement for each violation in
38 addition to the sentence provided for the felony conviction.

39 **Staff Note.** The text of this provision reflects an amendment made by SB 1302 (Cogdill). See
40 2008 Cal. Stat. ch. 599.

1 **Penal Code § 12022.85. Sex offense with knowledge of AIDS or HIV infection**

2 12022.85. (a) Any person who violates one or more of the offenses listed in
3 subdivision (b) with knowledge that he or she has acquired immune deficiency
4 syndrome (AIDS) or with the knowledge that he or she carries antibodies of the
5 human immunodeficiency virus at the time of the commission of those offenses,
6 shall receive a three-year enhancement for each violation in addition to the
7 sentence provided under those sections.

8 (b) Subdivision (a) applies to the following crimes:

9 (1) Rape in violation of Section 261.

10 (2) Unlawful intercourse with a person under 18 years of age in violation of
11 Section 261.5.

12 (3) Rape of a spouse in violation of Section 262.

13 (4) Sodomy in violation of Section 286.

14 (5) Oral copulation in violation of Section 288a.

15 (c) For purposes of proving the knowledge requirement of this section, the
16 prosecuting attorney may use test results received under subdivision (c) of Section
17 1202.1 or subdivision (g) of Section 1202.6.

18 **Penal Code § 12022.9. Intentional infliction of injury causing termination of pregnancy**

19 12022.9. Any person who, during the commission of a felony or attempted
20 felony, knows or reasonably should know that the victim is pregnant, and who,
21 with intent to inflict injury, and without the consent of the woman, personally
22 inflicts injury upon a pregnant woman that results in the termination of the
23 pregnancy shall be punished by an additional and consecutive term of
24 imprisonment in the state prison for five years. The additional term provided in
25 this subdivision shall not be imposed unless the fact of that injury is charged in the
26 accusatory pleading and admitted or found to be true by the trier of fact.

27 Nothing in this section shall be construed as affecting the applicability of
28 subdivision (a) of Section 187.

29 **Penal Code § 12022.95. Willful harm or injury resulting in death of child**

30 12022.95. Any person convicted of a violation of Section 273a, who under
31 circumstances or conditions likely to produce great bodily harm or death, willfully
32 causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain
33 or injury that results in death, or having the care or custody of any child, under
34 circumstances likely to produce great bodily harm or death, willfully causes or
35 permits that child to be injured or harmed, and that injury or harm results in death,
36 shall receive a four-year enhancement for each violation, in addition to the
37 sentence provided for that conviction. Nothing in this paragraph shall be construed
38 as affecting the applicability of subdivision (a) of Section 187 or Section 192. This
39 section shall not apply unless the allegation is included within an accusatory
40 pleading and admitted by the defendant or found to be true by the trier of fact.

1 **Penal Code § 12023. Armed criminal action**

2 12023. (a) Every person who carries a loaded firearm with the intent to commit
3 a felony is guilty of armed criminal action.

4 (b) Armed criminal action is punishable by imprisonment in a county jail not
5 exceeding one year, or in the state prison.

6 **Penal Code § 12024. Bearing deadly weapon with intent to assault**

7 12024. Every person having upon him or her any deadly weapon, with intent to
8 assault another, is guilty of a misdemeanor.

9 **Penal Code § 12025. Carrying concealed firearm**

10 12025. (a) A person is guilty of carrying a concealed firearm when he or she
11 does any of the following:

12 (1) Carries concealed within any vehicle which is under his or her control or
13 direction any pistol, revolver, or other firearm capable of being concealed upon the
14 person.

15 (2) Carries concealed upon his or her person any pistol, revolver, or other
16 firearm capable of being concealed upon the person.

17 (3) Causes to be carried concealed within any vehicle in which he or she is an
18 occupant any pistol, revolver, or other firearm capable of being concealed upon
19 the person.

20 (b) Carrying a concealed firearm in violation of **this section** is punishable, as
21 follows:

22 (1) Where the person previously has been convicted of any felony, or of any
23 crime made punishable by **this chapter**, as a felony.

24 (2) Where the firearm is stolen and the person knew or had reasonable cause to
25 believe that it was stolen, as a felony.

26 (3) Where the person is an active participant in a criminal street gang, as defined
27 in **subdivision (a) of Section 186.22**, under **the Street Terrorism Enforcement and**
28 **Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part**
29 **1)**, as a felony.

30 (4) Where the person is not in lawful possession of the firearm, as defined in **this**
31 **section**, or the person is within a class of persons prohibited from possessing or
32 acquiring a firearm pursuant to **Section 12021 or 12021.1 of this code** or **Section**
33 **8100 or 8103 of the Welfare and Institutions Code**, as a felony.

34 (5) Where the person has been convicted of a crime against a person or property,
35 or of a narcotics or dangerous drug violation, by imprisonment in the state prison,
36 or by imprisonment in a county jail not to exceed one year, by a fine not to exceed
37 one thousand dollars (\$1,000), or by both that imprisonment and fine.

38 (6) By imprisonment in the state prison, or by imprisonment in a county jail not
39 to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by
40 both that fine and imprisonment if both of the following conditions are met:

1 (A) Both the pistol, revolver, or other firearm capable of being concealed upon
2 the person and the unexpended ammunition capable of being discharged from that
3 firearm are either in the immediate possession of the person or readily accessible
4 to that person, or the pistol, revolver, or other firearm capable of being concealed
5 upon the person is loaded as defined in subdivision (g) of Section 12031.

6 (B) The person is not listed with the Department of Justice pursuant to
7 paragraph (1) of subdivision (c) of Section 11106, as the registered owner of that
8 pistol, revolver, or other firearm capable of being concealed upon the person.

9 (7) In all cases other than those specified in paragraphs (1) to (6), inclusive, by
10 imprisonment in a county jail not to exceed one year, by a fine not to exceed one
11 thousand dollars (\$1,000), or by both that imprisonment and fine.

12 (c) A peace officer may arrest a person for a violation of paragraph (6) of
13 subdivision (b) if the peace officer has probable cause to believe that the person is
14 not listed with the Department of Justice pursuant to paragraph (1) of subdivision
15 (c) of Section 11106 as the registered owner of the pistol, revolver, or other
16 firearm capable of being concealed upon the person, and one or more of the
17 conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

18 (d)(1) Every person convicted under this section who previously has been
19 convicted of a misdemeanor offense enumerated in Section 12001.6 shall be
20 punished by imprisonment in a county jail for at least three months and not
21 exceeding six months, or, if granted probation, or if the execution or imposition of
22 sentence is suspended, it shall be a condition thereof that he or she be imprisoned
23 in a county jail for at least three months.

24 (2) Every person convicted under this section who has previously been
25 convicted of any felony, or of any crime made punishable by this chapter, if
26 probation is granted, or if the execution or imposition of sentence is suspended, it
27 shall be a condition thereof that he or she be imprisoned in a county jail for not
28 less than three months.

29 (e) The court shall apply the three-month minimum sentence as specified in
30 subdivision (d), except in unusual cases where the interests of justice would best
31 be served by granting probation or suspending the imposition or execution of
32 sentence without the minimum imprisonment required in subdivision (d) or by
33 granting probation or suspending the imposition or execution of sentence with
34 conditions other than those set forth in subdivision (d), in which case, the court
35 shall specify on the record and shall enter on the minutes the circumstances
36 indicating that the interests of justice would best be served by that disposition.

37 (f) Firearms carried openly in belt holsters are not concealed within the meaning
38 of this section.

39 (g) For purposes of this section, **“lawful possession of the firearm”** means that
40 the person who has possession or custody of the firearm either lawfully owns the
41 firearm or has the permission of the lawful owner or a person who otherwise has
42 apparent authority to possess or have custody of the firearm. A person who takes a
43 firearm without the permission of the lawful owner or without the permission of a

1 person who has lawful custody of the firearm does not have lawful possession of
2 the firearm.

3 (h)(1) The district attorney of each county shall submit annually a report on or
4 before June 30, to the Attorney General consisting of profiles by race, age, gender,
5 and ethnicity of any person charged with a felony or a misdemeanor under **this**
6 **section** and any other offense charged in the same complaint, indictment, or
7 information.

8 (2) The Attorney General shall submit annually, a report on or before December
9 31, to the Legislature compiling all of the reports submitted pursuant to **paragraph**
10 **(1)**.

11 (3) **This subdivision** shall remain operative until January 1, 2005, and as of that
12 date shall be repealed.

13 **Penal Code § 12025.5. Carrying concealed firearm when in grave danger**

14 12025.5. (a) A violation of **Section 12025** is justifiable when a person who
15 possesses a firearm reasonably believes that he or she is in grave danger because
16 of circumstances forming the basis of a current restraining order issued by a court
17 against another person or persons who has or have been found to pose a threat to
18 his or her life or safety. **This section** may not apply when the circumstances
19 involve a mutual restraining order issued pursuant to **Division 10 (commencing**
20 **with Section 6200) of the Family Code** absent a factual finding of a specific threat
21 to the person's life or safety. It is not the intent of the Legislature to limit, restrict,
22 or narrow the application of current statutory or judicial authority to apply this or
23 other justifications to defendants charged with violating **Section 12025** or of
24 committing other similar offenses.

25 (b) Upon trial for violating **Section 12025**, the trier of fact shall determine
26 whether the defendant was acting out of a reasonable belief that he or she was in
27 grave danger.

28 **Penal Code § 12026. Carrying or possession of firearm at one's place of residence, place of**
29 **business, or other private property**

30 12026. (a) **Section 12025** shall not apply to or affect any citizen of the United
31 States or legal resident over the age of 18 years who resides or is temporarily
32 within this state, and who is not within the excepted classes prescribed by **Section**
33 **12021 or 12021.1 of this code** or **Section 8100 or 8103 of the Welfare and**
34 **Institutions Code**, who carries, either openly or concealed, anywhere within the
35 citizen's or legal resident's place of residence, place of business, or on private
36 property owned or lawfully possessed by the citizen or legal resident any pistol,
37 revolver, or other firearm capable of being concealed upon the person.

38 (b) No permit or license to purchase, own, possess, keep, or carry, either openly
39 or concealed, shall be required of any citizen of the United States or legal resident
40 over the age of 18 years who resides or is temporarily within this state, and who is
41 not within the excepted classes prescribed by **Section 12021 or 12021.1 of this**

1 code or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase,
2 own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other
3 firearm capable of being concealed upon the person within the citizen's or legal
4 resident's place of residence, place of business, or on private property owned or
5 lawfully possessed by the citizen or legal resident.

6 (c) Nothing in this section shall be construed as affecting the application of
7 Section 12031.

8 **Penal Code § 12026.1. Carrying firearm in locked container**

9 12026.1. (a) Section 12025 shall not be construed to prohibit any citizen of the
10 United States over the age of 18 years who resides or is temporarily within this
11 state, and who is not prohibited by state or federal law from possessing, receiving,
12 owning, or purchasing a firearm, from transporting or carrying any pistol,
13 revolver, or other firearm capable of being concealed upon the person, provided
14 that the following applies to the firearm:

15 (1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk
16 or in a locked container in the vehicle other than the utility or glove compartment.

17 (2) The firearm is carried by the person directly to or from any motor vehicle for
18 any lawful purpose and, while carrying the firearm, the firearm is contained within
19 a locked container.

20 (b) The provisions of this section do not prohibit or limit the otherwise lawful
21 carrying or transportation of any pistol, revolver, or other firearm capable of being
22 concealed upon the person in accordance with this chapter.

23 (c) As used in this section, "locked container" means a secure container which
24 is fully enclosed and locked by a padlock, key lock, combination lock, or similar
25 locking device.

26 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
27 2008 Cal. Stat. ch. 698.

28 **Penal Code § 12026.2. Miscellaneous exemptions from restriction on carrying concealed**
29 **firearm**

30 12026.2. (a) Section 12025 does not apply to, or affect, any of the following:

31 (1) The possession of a firearm by an authorized participant in a motion picture,
32 television, or video production or entertainment event when the participant
33 lawfully uses the firearm as part of that production or event or while going directly
34 to, or coming directly from, that production or event.

35 (2) The possession of a firearm in a locked container by a member of any club or
36 organization, organized for the purpose of lawfully collecting and lawfully
37 displaying pistols, revolvers, or other firearms, while the member is at meetings of
38 the clubs or organizations or while going directly to, and coming directly from,
39 those meetings.

1 (3) The transportation of a firearm by a participant when going directly to, or
2 coming directly from, a recognized safety or hunter safety class, or a recognized
3 sporting event involving that firearm.

4 (4) The transportation of a firearm by a person listed in **Section 12026** directly
5 between any of the places mentioned in **Section 12026**.

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

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

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

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

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

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

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

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

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

41 (14) The transportation of a firearm by a person when going directly to, or
42 coming directly from, a gun show or event, as defined in **Section 478.100 of Title**
43 **27 of the Code of Federal Regulations**, for the purpose of lawfully transferring,

1 selling, or loaning that firearm in accordance with subdivision (d) of Section
2 12072.

3 (15) The transportation of a firearm by a person in order to utilize paragraph (6)
4 of subdivision (a) of Section 12078 as it pertains to that firearm.

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

11 (17) The transportation of a firearm by a person in order to comply with
12 paragraph (2) of subdivision (f) of Section 12072 as it pertains to that firearm.

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

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

20 (20) The transportation of a firearm by a person for the purpose of obtaining an
21 identification number or mark assigned for that firearm from the Department of
22 Justice pursuant to Section 12092.

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

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

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

35 **Penal Code § 12027. Additional exemptions from restriction on carrying concealed firearm**

36 12027. Section 12025 does not apply to, or affect, any of the following:

37 (a)(1)(A) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a)
38 of Section 830.33, whether active or honorably retired, other duly appointed peace
39 officers, honorably retired peace officers listed in subdivision (c) of Section 830.5,
40 other honorably retired peace officers who during the course and scope of their
41 employment as peace officers were authorized to, and did, carry firearms, full-time
42 paid peace officers of other states and the federal government who are carrying out

1 official duties while in California, or any person summoned by any of these
2 officers to assist in making arrests or preserving the peace while he or she is
3 actually engaged in assisting that officer. Any peace officer described in **this**
4 **paragraph** who has been honorably retired shall be issued an identification
5 certificate by the law enforcement agency from which the officer has retired. The
6 issuing agency may charge a fee necessary to cover any reasonable expenses
7 incurred by the agency in issuing certificates pursuant to **this subdivision**. As used
8 in **this section** and **Section 12031**, the term **“honorably retired”** includes all
9 peace officers who have qualified for, and have accepted, a service or disability
10 retirement. For purposes of **this section** and **Section 12031**, the term **“honorably**
11 **retired”** does not include an officer who has agreed to a service retirement in lieu
12 of termination.

13 (B) Any officer, except an officer listed in **Section 830.1 or 830.2**, subdivision
14 (a) of **Section 830.33**, or subdivision (c) of **Section 830.5** who retired prior to
15 January 1, 1981, shall have an endorsement on the identification certificate stating
16 that the issuing agency approves the officer’s carrying of a concealed firearm.

17 (C) No endorsement or renewal endorsement issued pursuant to **paragraph (2)**
18 shall be effective unless it is in the format set forth in **subparagraph (D)**, except
19 that any peace officer listed in **subdivision (f) of Section 830.2** or in subdivision
20 (c) of **Section 830.5**, who is retired between January 2, 1981, and on or before
21 December 31, 1988, and who is authorized to carry a concealed firearm pursuant
22 to **this section**, shall not be required to have an endorsement in the format set forth
23 in **subparagraph (D)** until the time of the issuance, on or after January 1, 1989, of a
24 renewal endorsement pursuant to **paragraph (2)**.

25 (D) A certificate issued pursuant to **this paragraph** for persons who are not listed
26 in **Section 830.1 or 830.2**, subdivision (a) of **Section 830.33**, or subdivision (c) of
27 **Section 830.5** or for persons retiring after January 1, 1981, shall be in the
28 following format: it shall be on a 2X3 inch card, bear the photograph of the retiree,
29 the retiree’s name, date of birth, the date that the retiree retired, name and address
30 of the agency from which the retiree retired, have stamped on it the endorsement
31 “CCW Approved” and the date the endorsement is to be renewed. A certificate
32 issued pursuant to **this paragraph** shall not be valid as identification for the sale,
33 purchase, or transfer of a firearm.

34 (E) For purposes of **this section** and **Section 12031**, **“CCW”** means “carry
35 concealed weapons.”

36 (2) A retired peace officer, except an officer listed in **Section 830.1 or 830.2**,
37 **subdivision (a) of Section 830.33**, or subdivision (c) of **Section 830.5** who retired
38 prior to January 1, 1981, shall petition the issuing agency for the renewal of his or
39 her privilege to carry a concealed firearm every five years. An honorably retired
40 peace officer listed in **Section 830.1 or 830.2**, subdivision (a) of **Section 830.33**, or
41 **subdivision (c) of Section 830.5** who retired prior to January 1, 1981, shall not be
42 required to obtain an endorsement from the issuing agency to carry a concealed
43 firearm. The agency from which a peace officer is honorably retired may, upon

1 initial retirement of that peace officer, or at any time subsequent thereto, deny or
2 revoke for good cause the retired officer's privilege to carry a concealed firearm.
3 A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section
4 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981,
5 shall have his or her privilege to carry a concealed firearm denied or revoked by
6 having the agency from which the officer retired stamp on the officer's
7 identification certificate "No CCW privilege."

8 (3) An honorably retired peace officer who is listed in subdivision (c) of Section
9 830.5 and authorized to carry concealed firearms by this subdivision shall meet the
10 training requirements of Section 832 and shall qualify with the firearm at least
11 annually. The individual retired peace officer shall be responsible for maintaining
12 his or her eligibility to carry a concealed firearm. The Department of Justice shall
13 provide subsequent arrest notification pursuant to Section 11105.2 regarding
14 honorably retired peace officers listed in subdivision (c) of Section 830.5 to the
15 agency from which the officer has retired.

16 (b) The possession or transportation of unloaded pistols, revolvers, or other
17 firearms capable of being concealed upon the person as merchandise by a person
18 who is engaged in the business of manufacturing, importing, wholesaling,
19 repairing, or dealing in firearms and who is licensed to engage in that business or
20 the authorized representative or authorized agent of that person while engaged in
21 the lawful course of the business.

22 (c) Members of the Army, Navy, Air Force, Coast Guard, or Marine Corps of
23 the United States, or the National Guard, when on duty, or organizations which are
24 by law authorized to purchase or receive those weapons from the United States or
25 this state.

26 (d) The carrying of unloaded pistols, revolvers, or other firearms capable of
27 being concealed upon the person by duly authorized military or civil organizations
28 while parading, or the members thereof when going to and from the places of
29 meeting of their respective organizations.

30 (e) Guards or messengers of common carriers, banks, and other financial
31 institutions while actually employed in and about the shipment, transportation, or
32 delivery of any money, treasure, bullion, bonds, or other thing of value within this
33 state.

34 (f) Members of any club or organization organized for the purpose of practicing
35 shooting at targets upon established target ranges, whether public or private, while
36 the members are using pistols, revolvers, or other firearms capable of being
37 concealed upon the person upon the target ranges, or transporting these firearms
38 unloaded when going to and from the ranges.

39 (g) Licensed hunters or fishermen carrying pistols, revolvers, or other firearms
40 capable of being concealed upon the person while engaged in hunting or fishing,
41 or transporting those firearms unloaded when going to or returning from the
42 hunting or fishing expedition.

1 (h) Transportation of unloaded firearms by a person operating a licensed
2 common carrier or an authorized agent or employee thereof when transported in
3 conformance with applicable federal law.

4 (i) Upon approval of the sheriff of the county in which they reside, honorably
5 retired federal officers or agents of federal law enforcement agencies, including,
6 but not limited to, the Federal Bureau of Investigation, the Secret Service, the
7 United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and
8 Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration,
9 the United States Border Patrol, and officers or agents of the Internal Revenue
10 Service who were authorized to carry weapons while on duty, who were assigned
11 to duty within the state for a period of not less than one year, or who retired from
12 active service in the state.

13 Retired federal officers or agents shall provide the sheriff with certification from
14 the agency from which they retired certifying their service in the state, the nature
15 of their retirement, and indicating the agency's concurrence that the retired federal
16 officer or agent should be accorded the privilege of carrying a concealed firearm.

17 Upon that approval, the sheriff shall issue a permit to the retired federal officer
18 or agent indicating that he or she may carry a concealed firearm in accordance
19 with **this subdivision**. The permit shall be valid for a period not exceeding five
20 years, shall be carried by the retiree while carrying a concealed firearm, and may
21 be revoked for good cause.

22 The sheriff of the county in which the retired federal officer or agent resides
23 may require recertification prior to a permit renewal, and may suspend the
24 privilege for cause. The sheriff may charge a fee necessary to cover any
25 reasonable expenses incurred by the county.

26 (j) The carrying of a pistol, revolver, or other firearm capable of being concealed
27 upon the person by a person who is authorized to carry that weapon in a concealed
28 manner pursuant to **Article 3 (commencing with Section 12050)**.

29 **Penal Code § 12027.1. Identification certificate authorizing retired peace officer to carry**
30 **concealed and loaded firearm**

31 12027.1. (a)(1)(A)(i) Any peace officer employed by an agency and listed in
32 **Section 830.1 or 830.2 or subdivision (c) of Section 830.5** who retired after
33 January 1, 1981, shall have an endorsement on the identification certificate stating
34 that the issuing agency approves the officer's carrying of a concealed and loaded
35 firearm.

36 (ii) Any peace officer listed in **Section 830.1 or 830.2 or subdivision (c) of**
37 **Section 830.5** who retired prior to January 1, 1981, is authorized to carry a
38 concealed and loaded firearm if the agency issued the officer an identification
39 certificate and the certificate has not been stamped as specified in **paragraph (2) of**
40 **subdivision (a) of Section 12027**.

41 (iii) Peace officers not listed in **clause (i) or (ii)** who were authorized to, and did,
42 carry firearms during the course and scope of their employment as peace officers,

1 shall have an endorsement on the identification certificate stating that the issuing
2 agency approves the officer's carrying of a concealed and loaded firearm.

3 (B) An identification certificate authorizing the officer to carry a concealed and
4 loaded firearm or an endorsement on the certificate may be revoked or denied by
5 the issuing agency only upon a showing of good cause. Good cause shall be
6 determined at a hearing, as specified in subdivision (d).

7 (2) A retired peace officer may have his or her privilege to carry a concealed and
8 loaded firearm revoked or denied by violating any departmental rule, or state or
9 federal law that, if violated by an officer on active duty, would result in that
10 officer's arrest, suspension, or removal from the agency.

11 (b)(1) An identification certificate authorizing the officer to carry a concealed
12 and loaded firearm or an endorsement may be revoked or denied by the issuing
13 agency only upon a showing of good cause. Good cause shall be determined at a
14 hearing, as specified in subdivision (d).

15 (2) An identification certificate authorizing the officer to carry a concealed and
16 loaded firearm or an endorsement may be revoked only after a hearing, as
17 specified in subdivision (d). Any retired peace officer whose identification
18 certificate authorizing the officer to carry a concealed and loaded firearm or an
19 endorsement is to be revoked shall have 15 days to respond to the notice of the
20 hearing. Notice of the hearing shall be served either personally on the retiree or
21 sent by first-class mail, postage prepaid, return receipt requested to the retiree's
22 last known place of residence. Upon the date the agency receives the signed
23 registered receipt or upon the date the notice is served personally on the retiree,
24 the retiree shall have 15 days to respond to the notification. A retired peace officer
25 who fails to respond to the notice of the hearing shall forfeit his or her right to
26 respond.

27 (3) An identification certificate authorizing the officer to carry a concealed and
28 loaded firearm or an endorsement may be denied prior to a hearing. If a hearing is
29 not conducted prior to the denial of an endorsement, a retired peace officer, within
30 15 days of the denial, shall have the right to request a hearing. A retired peace
31 officer who fails to request a hearing pursuant to this paragraph shall forfeit his or
32 her right to the hearing.

33 (c) A retired peace officer, when notified of the revocation of his or her privilege
34 to carry a concealed and loaded firearm, after the hearing, or upon forfeiting his or
35 her right to a hearing, shall immediately surrender to the issuing agency his or her
36 identification certificate. The issuing agency shall reissue a new identification
37 certificate without an endorsement. However, if the peace officer retired prior to
38 January 1, 1981, and was at the time of his or her retirement a peace officer listed
39 in Section 830.1 or 830.2 or subdivision (c) of Section 830.5, the issuing agency
40 shall stamp on the identification certificate "No CCW privilege."

41 (d) Any hearing conducted under this section shall be held before a three-
42 member hearing board. One member of the board shall be selected by the agency
43 and one member shall be selected by the retired peace officer or his or her

1 employee organization. The third member shall be selected jointly by the agency
2 and the retired peace officer or his or her employee organization.

3 Any decision by the board shall be binding on the agency and the retired peace
4 officer.

5 (e) No peace officer who is retired after January 1, 1989, because of a
6 psychological disability shall be issued an endorsement to carry a concealed and
7 loaded firearm pursuant to **this section**.

8 **Penal Code § 12028. Unlawful carrying of specified weapons as nuisance**

9 12028. (a) The unlawful concealed carrying upon the person of any explosive
10 substance, other than fixed ammunition, dirk, or dagger, as provided in **Section**
11 **12020**, the unlawful carrying of any handguns in violation of **Section 12025**, and
12 the unlawful possession or carrying of any item in violation of **Section 653k** is a
13 nuisance.

14 (b)(1) Except as provided in **paragraph (2)**, a firearm of any nature owned or
15 possessed in violation of **Section 12021, 12021.1, or 12101** of this code, or
16 **Chapter 3 (commencing with Section 8100) of Division 5 of the Welfare and**
17 **Institutions Code**, or used in the commission of any misdemeanor as provided in
18 **this code**, any felony, or an attempt to commit any misdemeanor as provided in
19 **this code** or any felony, is, upon a conviction of the defendant or upon a juvenile
20 court finding that an offense which would be a misdemeanor or felony if
21 committed by an adult was committed or attempted by the juvenile with the use of
22 a firearm, a nuisance. A finding that the defendant was guilty of the offense but
23 was insane at the time the offense was committed is a conviction for the purposes
24 of **this section**.

25 (2) A firearm is not a nuisance pursuant to **this subdivision** if the firearm owner
26 disposes of his or her firearm pursuant to **paragraph (2) of subdivision (d) of**
27 **Section 12021**.

28 (c) Any weapon described in **subdivision (a)**, or, upon conviction of the
29 defendant or upon a juvenile court finding that an offense which would be a
30 misdemeanor or felony if committed by an adult was committed or attempted by
31 the juvenile with the use of a firearm, any weapon described in **subdivision (b)**
32 shall be surrendered to the sheriff of a county or the chief of police or other head
33 of a municipal police department of any city or city and county or the chief of
34 police of any campus of the University of California or the California State
35 University or the Commissioner of the California Highway Patrol. For purposes of
36 **this subdivision**, the Commissioner of the California Highway Patrol shall receive
37 only weapons that were confiscated by a member of the California Highway
38 Patrol. The officers to whom the weapons are surrendered, except upon the
39 certificate of a judge of a court of record, or of the district attorney of the county,
40 that the retention thereof is necessary or proper to the ends of justice, may
41 annually, between the 1st and 10th days of July, in each year, offer the weapons,
42 which the officers in charge of them consider to have value with respect to

1 sporting, recreational, or collection purposes, for sale at public auction to persons
2 licensed pursuant to **Section 12071** to engage in businesses involving any weapon
3 purchased. If any weapon has been stolen and is thereafter recovered from the
4 thief or his or her transferee, or is used in a manner as to constitute a nuisance
5 pursuant to **subdivision (a) or (b)** without the prior knowledge of its lawful owner
6 that it would be so used, it shall not be so offered for sale but shall be restored to
7 the lawful owner, as soon as its use as evidence has been served, upon his or her
8 identification of the weapon and proof of ownership, and after the law
9 enforcement agency has complied with **Section 12021.3**.

10 (d) If, under **this section**, a weapon is not of the type that can be sold to the
11 public, generally, or is not sold pursuant to **subdivision (c)**, the weapon, in the
12 month of July, next succeeding, or sooner, if necessary to conserve local resources
13 including space and utilization of personnel who maintain files and security of
14 those weapons, shall be destroyed so that it can no longer be used as such a
15 weapon except upon the certificate of a judge of a court of record, or of the district
16 attorney of the county, that the retention of it is necessary or proper to the ends of
17 justice.

18 (e) **This section** does not apply to any firearm in the possession of the
19 Department of Fish and Game or which was used in the violation of any provision
20 of the Fish and Game Code or any regulation adopted pursuant thereto, or which is
21 forfeited pursuant to **Section 5008.6 of the Public Resources Code**.

22 (f) No stolen weapon shall be sold or destroyed pursuant to **subdivision (c) or (d)**
23 unless reasonable notice is given to its lawful owner, if his or her identity and
24 address can be reasonably ascertained.

25 **Penal Code § 12028.5. Seizure of firearm or other deadly weapon at scene of domestic**
26 **violence**

27 12028.5. (a) As used in **this section**, the following definitions shall apply:

28 (1) **“Abuse”** means any of the following:

29 (A) Intentionally or recklessly to cause or attempt to cause bodily injury.

30 (B) Sexual assault.

31 (C) To place a person in reasonable apprehension of imminent serious bodily
32 injury to that person or to another.

33 (D) To molest, attack, strike, stalk, destroy personal property, or violate the
34 terms of a domestic violence protective order issued pursuant to **Part 4**
35 **(commencing with Section 6300) of Division 10 of the Family Code**.

36 (2) **“Domestic violence”** means abuse perpetrated against any of the following
37 persons:

38 (A) A spouse or former spouse.

39 (B) A cohabitant or former cohabitant, as defined in **Section 6209 of the Family**
40 **Code**.

41 (C) A person with whom the respondent is having or has had a dating or
42 engagement relationship.

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

5 (E) A child of a party or a child who is the subject of an action under the
6 Uniform Parentage Act, where the presumption applies that the male parent is the
7 father of the child to be protected.

8 (F) Any other person related by consanguinity or affinity within the second
9 degree.

10 (3) **“Deadly weapon”** means any weapon, the possession or concealed carrying
11 of which is prohibited by Section 12020.

12 (b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police
13 officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of
14 the Department of the California Highway Patrol, as defined in subdivision (a) of
15 Section 830.2, a member of the University of California Police Department, as
16 defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while
17 acting in the course and scope of his or her employment as a peace officer, a
18 member of a California State University Police Department, as defined in
19 subdivision (c) of Section 830.2, a peace officer of the Department of Parks and
20 Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as
21 defined in subdivision (d) of Section 830.31, a peace officer, as defined in
22 subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in
23 Section 830.5, who is at the scene of a domestic violence incident involving a
24 threat to human life or a physical assault, shall take temporary custody of any
25 firearm or other deadly weapon in plain sight or discovered pursuant to a
26 consensual or other lawful search as necessary for the protection of the peace
27 officer or other persons present. Upon taking custody of a firearm or other deadly
28 weapon, the officer shall give the owner or person who possessed the firearm a
29 receipt. The receipt shall describe the firearm or other deadly weapon and list any
30 identification or serial number on the firearm. The receipt shall indicate where the
31 firearm or other deadly weapon can be recovered, the time limit for recovery as
32 required by this section, and the date after which the owner or possessor can
33 recover the firearm or other deadly weapon. No firearm or other deadly weapon
34 shall be held less than 48 hours. Except as provided in subdivision (f), if a firearm
35 or other deadly weapon is not retained for use as evidence related to criminal
36 charges brought as a result of the domestic violence incident or is not retained
37 because it was illegally possessed, the firearm or other deadly weapon shall be
38 made available to the owner or person who was in lawful possession 48 hours after
39 the seizure or as soon thereafter as possible, but no later than five business days
40 after the owner or person who was in lawful possession demonstrates compliance
41 with Section 12021.3. In any civil action or proceeding for the return of firearms
42 or ammunition or other deadly weapon seized by any state or local law
43 enforcement agency and not returned within five business days following the

1 initial seizure, except as provided in subdivision (d), the court shall allow
2 reasonable attorney's fees to the prevailing party.

3 (c) Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32,
4 who takes custody of a firearm or deadly weapon pursuant to this section shall
5 deliver the firearm within 24 hours to the city police department or county
6 sheriff's office in the jurisdiction where the college or school is located.

7 (d) Any firearm or other deadly weapon that has been taken into custody that has
8 been stolen shall be restored to the lawful owner, as soon as its use for evidence
9 has been served, upon his or her identification of the firearm or other deadly
10 weapon and proof of ownership, and after the law enforcement agency has
11 complied with Section 12021.3.

12 (e) Any firearm or other deadly weapon taken into custody and held by a police,
13 university police, or sheriff's department or by a marshal's office, by a peace
14 officer of the Department of the California Highway Patrol, as defined in
15 subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and
16 Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as
17 defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in
18 Section 830.5, for longer than 12 months and not recovered by the owner or
19 person who has lawful possession at the time it was taken into custody, shall be
20 considered a nuisance and sold or destroyed as provided in subdivision (c) of
21 Section 12028. Firearms or other deadly weapons not recovered within 12 months
22 due to an extended hearing process as provided in subdivision (j), are not subject
23 to destruction until the court issues a decision, and then only if the court does not
24 order the return of the firearm or other deadly weapon to the owner.

25 (f) In those cases in which a law enforcement agency has reasonable cause to
26 believe that the return of a firearm or other deadly weapon would be likely to
27 result in endangering the victim or the person reporting the assault or threat, the
28 agency shall advise the owner of the firearm or other deadly weapon, and within
29 60 days of the date of seizure, initiate a petition in superior court to determine if
30 the firearm or other deadly weapon should be returned. The law enforcement
31 agency may make an ex parte application stating good cause for an order
32 extending the time to file a petition. Including any extension of time granted in
33 response to an ex parte request, a petition must be filed within 90 days of the date
34 of seizure of the firearm or other deadly weapon.

35 (g) The law enforcement agency shall inform the owner or person who had
36 lawful possession of the firearm or other deadly weapon, at that person's last
37 known address by registered mail, return receipt requested, that he or she has 30
38 days from the date of receipt of the notice to respond to the court clerk to confirm
39 his or her desire for a hearing, and that the failure to respond shall result in a
40 default order forfeiting the confiscated firearm or other deadly weapon. For the
41 purposes of this subdivision, the person's last known address shall be presumed to
42 be the address provided to the law enforcement officer by that person at the time
43 of the family violence incident. In the event the person whose firearm or other

1 deadly weapon was seized does not reside at the last address provided to the
2 agency, the agency shall make a diligent, good faith effort to learn the
3 whereabouts of the person and to comply with these notification requirements.

4 (h) If the person requests a hearing, the court clerk shall set a hearing no later
5 than 30 days from receipt of that request. The court clerk shall notify the person,
6 the law enforcement agency involved, and the district attorney of the date, time,
7 and place of the hearing. Unless it is shown by a preponderance of the evidence
8 that the return of the firearm or other deadly weapon would result in endangering
9 the victim or the person reporting the assault or threat, the court shall order the
10 return of the firearm or other deadly weapon and shall award reasonable attorney's
11 fees to the prevailing party.

12 (i) If the person does not request a hearing or does not otherwise respond within
13 30 days of the receipt of the notice, the law enforcement agency may file a petition
14 for an order of default and may dispose of the firearm or other deadly weapon as
15 provided in **Section 12028**.

16 (j) If, at the hearing, the court does not order the return of the firearm or other
17 deadly weapon to the owner or person who had lawful possession, that person may
18 petition the court for a second hearing within 12 months from the date of the initial
19 hearing. If there is a petition for a second hearing, unless it is shown by clear and
20 convincing evidence that the return of the firearm or other deadly weapon would
21 result in endangering the victim or the person reporting the assault or threat, the
22 court shall order the return of the firearm or other deadly weapon and shall award
23 reasonable attorney's fees to the prevailing party. If the owner or person who had
24 lawful possession does not petition the court within this 12-month period for a
25 second hearing or is unsuccessful at the second hearing in gaining return of the
26 firearm or other deadly weapon, the firearm or other deadly weapon may be
27 disposed of as provided in **Section 12028**.

28 (k) The law enforcement agency, or the individual law enforcement officer, shall
29 not be liable for any act in the good faith exercise of **this section**.

30 **Penal Code § 12028.7. Receipt for firearm taken into custody by law enforcement officer**

31 12028.7. (a) When a firearm is taken into custody by a law enforcement officer,
32 the officer shall issue the person who possessed the firearm a receipt describing
33 the firearm, and listing any serial number or other identification on the firearm.

34 (b) The receipt shall indicate where the firearm may be recovered, any
35 applicable time limit for recovery, and the date after which the owner or possessor
36 may recover the firearm pursuant to **Section 12021.3**.

37 (c) Nothing in **this section** is intended to displace any existing law regarding the
38 seizure or return of firearms.

39 **Penal Code § 12029. Deadly weapons that constitute nuisance**

40 12029. Except as provided in **Section 12020**, blackjacks, slungshots, billies,
41 nunchakus, sandclubs, sandbags, shurikens, metal knuckles, short-barreled

1 shotguns or short-barreled rifles as defined in **Section 12020**, and any other item
2 which is listed in **subdivision (a) of Section 12020** and is not listed in **subdivision**
3 **(a) of Section 12028** are nuisances, and the Attorney General, district attorney, or
4 city attorney may bring an action to enjoin the manufacture of, importation of,
5 keeping for sale of, offering or exposing for sale, giving, lending, or possession of,
6 any of the foregoing items. These weapons shall be subject to confiscation and
7 summary destruction whenever found within the state. These weapons shall be
8 destroyed in the same manner as other weapons described in **Section 12028**,
9 except that upon the certification of a judge or of the district attorney that the ends
10 of justice will be subserved thereby, the weapon shall be preserved until the
11 necessity for its use ceases.

12 **Penal Code § 12030. Permissible uses of firearm in custody of law enforcement officer**

13 12030. (a) The officer having custody of any firearms which may be useful to
14 the California National Guard, the Coast Guard Auxiliary, or to any military or
15 naval agency of the federal or state government, including, but not limited to, the
16 California National Guard military museum and resource center, may, upon the
17 authority of the legislative body of the city, city and county, or county by which he
18 or she is employed and the approval of the Adjutant General, deliver the firearms
19 to the commanding officer of a unit of the California National Guard, the Coast
20 Guard Auxiliary, or any other military agency of the state or federal government in
21 lieu of destruction as required by **this chapter**. The officer delivering the firearms
22 shall take a receipt for them containing a complete description thereof and shall
23 keep the receipt on file in his or her office as a public record.

24 (b) Any law enforcement agency which has custody of any firearms, or any parts
25 of any firearms, which are subject to destruction as required by **this chapter** may,
26 in lieu of destroying the weapons, retain and use any of them as may be useful in
27 carrying out the official duties of the agency, or upon approval of a court, may
28 release them to any other law enforcement agency for use in carrying out the
29 official duties of that agency, or may turn over to the criminalistics laboratory of
30 the Department of Justice or the criminalistics laboratory of a police department,
31 sheriff's office, or district attorney's office any weapons which may be useful in
32 carrying out the official duties of their respective agencies.

33 (c) Any firearm, or part of any firearm, which, rather than being destroyed, is
34 used for official purposes pursuant to **this section** shall be destroyed by the agency
35 using the weapon when it is no longer needed by the agency for use in carrying out
36 its official duties. In the case of firearms or weaponry donated to the California
37 National Guard military museum and resource center, they may be disposed of
38 pursuant to **Section 179 of the Military and Veterans Code**.

39 (d) Any law enforcement agency which has custody of any firearms, or any parts
40 of any firearms, which are subject to destruction as required by **this chapter** may,
41 in lieu of destroying the firearms, obtain an order from the superior court directing
42 the release of the firearms to the sheriff. The sheriff shall enter those weapons into

1 the Automated Firearms System (AFS), via the California Law Enforcement
2 Telecommunications System, with a complete description of each weapon,
3 including the make, type, category, caliber, and serial number of the firearms, and
4 the name of the academy receiving the weapon entered into the AFS
5 miscellaneous field. The sheriff shall then release the firearms to the basic training
6 academy certified by the Commission on Peace Officer Standards and Training, so
7 that the firearms may be used for instructional purposes in the certified courses. As
8 used in this section, the term “firearms” shall not include destructive devices, as
9 defined in Section 12301. All firearms released to an academy shall be under the
10 care, custody, and control of the particular academy.

11 Any firearm, or part of any firearm, which is not destroyed, and is used for the
12 purposes authorized by this section, shall be returned to the law enforcement
13 agency which had original custody of the firearm when it is no longer needed by
14 the basic training academy, or when the basic training academy is no longer
15 certified by the commission. When those firearms are returned, the law
16 enforcement agency to whom the firearms are returned, shall on the date of the
17 return, enter into the Automated Firearms System (AFS), via the California Law
18 Enforcement Telecommunications System, a complete description of each
19 weapon, including the make, type, category, caliber, and serial number of the
20 firearms, and the name of the entity returning the firearm.

21 (e) Any law enforcement agency that retains custody of any firearm pursuant to
22 this section or that destroys a firearm pursuant to Section 12028 shall notify the
23 Department of Justice of the retention or destruction. This notification shall consist
24 of a complete description of each firearm, including the name of the manufacturer
25 or brand name, model, caliber, and serial number.

26 **Penal Code § 12031. Carrying loaded firearm**

27 12031. (a)(1) A person is guilty of carrying a loaded firearm when he or she
28 carries a loaded firearm on his or her person or in a vehicle while in any public
29 place or on any public street in an incorporated city or in any public place or on
30 any public street in a prohibited area of unincorporated territory.

31 (2) Carrying a loaded firearm in violation of this section is punishable, as
32 follows:

33 (A) Where the person previously has been convicted of any felony, or of any
34 crime made punishable by this chapter, as a felony.

35 (B) Where the firearm is stolen and the person knew or had reasonable cause to
36 believe that it was stolen, as a felony.

37 (C) Where the person is an active participant in a criminal street gang, as
38 defined in subdivision (a) of Section 186.22, under the Street Terrorism
39 Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20)
40 of Title 7 of Part 1), as a felony.

41 (D) Where the person is not in lawful possession of the firearm, as defined in
42 this section, or is within a class of persons prohibited from possessing or acquiring

1 a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or
2 8103 of the Welfare and Institutions Code, as a felony.

3 (E) Where the person has been convicted of a crime against a person or
4 property, or of a narcotics or dangerous drug violation, by imprisonment in the
5 state prison, or by imprisonment in a county jail not to exceed one year, by a fine
6 not to exceed one thousand dollars (\$1,000), or by both that imprisonment and
7 fine.

8 (F) Where the person is not listed with the Department of Justice pursuant to
9 Section 11106, as the registered owner of the pistol, revolver, or other firearm
10 capable of being concealed upon the person, by imprisonment in the state prison,
11 or by imprisonment in a county jail not to exceed one year, or by a fine not to
12 exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

13 (G) In all cases other than those specified in subparagraphs (A) to (F), inclusive,
14 as a misdemeanor, punishable by imprisonment in a county jail not to exceed one
15 year, by a fine not to exceed one thousand dollars (\$1,000), or by both that
16 imprisonment and fine.

17 (3) For purposes of this section, **“lawful possession of the firearm”** means that
18 the person who has possession or custody of the firearm either lawfully acquired
19 and lawfully owns the firearm or has the permission of the lawful owner or person
20 who otherwise has apparent authority to possess or have custody of the firearm. A
21 person who takes a firearm without the permission of the lawful owner or without
22 the permission of a person who has lawful custody of the firearm does not have
23 lawful possession of the firearm.

24 (4) Nothing in this section shall preclude prosecution under Sections 12021 and
25 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code,
26 or any other law with a greater penalty than this section.

27 (5)(A) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836,
28 a peace officer may make an arrest without a warrant:

29 (i) When the person arrested has violated this section, although not in the
30 officer’s presence.

31 (ii) Whenever the officer has reasonable cause to believe that the person to be
32 arrested has violated this section, whether or not this section has, in fact, been
33 violated.

34 (B) A peace officer may arrest a person for a violation of subparagraph (F) of
35 paragraph (2), if the peace officer has probable cause to believe that the person is
36 carrying a loaded pistol, revolver, or other firearm capable of being concealed
37 upon the person in violation of this section and that person is not listed with the
38 Department of Justice pursuant to paragraph (1) of subdivision (c) of Section
39 11106 as the registered owner of that pistol, revolver, or other firearm capable of
40 being concealed upon the person.

41 (6)(A) Every person convicted under this section who has previously been
42 convicted of an offense enumerated in Section 12001.6, or of any crime made
43 punishable under this chapter, shall serve a term of at least three months in a

1 county jail, or, if granted probation or if the execution or imposition of sentence is
2 suspended, it shall be a condition thereof that he or she be imprisoned for a period
3 of at least three months.

4 (B) The court shall apply the three-month minimum sentence except in unusual
5 cases where the interests of justice would best be served by granting probation or
6 suspending the imposition or execution of sentence without the minimum
7 imprisonment required in **this subdivision** or by granting probation or suspending
8 the imposition or execution of sentence with conditions other than those set forth
9 in **this subdivision**, in which case, the court shall specify on the record and shall
10 enter on the minutes the circumstances indicating that the interests of justice
11 would best be served by that disposition.

12 (7) A violation of **this section** which is punished by imprisonment in a county
13 jail not exceeding one year shall not constitute a conviction of a crime punishable
14 by imprisonment for a term exceeding one year for the purposes of determining
15 federal firearms eligibility under **Section 922(g)(1) of Title 18 of the United States**
16 **Code**.

17 (b) **Subdivision (a)** shall not apply to any of the following: (1) Peace officers
18 listed in **Section 830.1 or 830.2, or subdivision (a) of Section 830.33**, whether
19 active or honorably retired, other duly appointed peace officers, honorably retired
20 peace officers listed in **subdivision (c) of Section 830.5**, other honorably retired
21 peace officers who during the course and scope of their employment as peace
22 officers were authorized to, and did, carry firearms, full-time paid peace officers
23 of other states and the federal government who are carrying out official duties
24 while in California, or any person summoned by any of those officers to assist in
25 making arrests or preserving the peace while the person is actually engaged in
26 assisting that officer. Any peace officer described in **this paragraph** who has been
27 honorably retired shall be issued an identification certificate by the law
28 enforcement agency from which the officer has retired. The issuing agency may
29 charge a fee necessary to cover any reasonable expenses incurred by the agency in
30 issuing certificates pursuant to **this paragraph** and **paragraph (3)**.

31 Any officer, except an officer listed in **Section 830.1 or 830.2, subdivision (a) of**
32 **Section 830.33, or subdivision (c) of Section 830.5** who retired prior to January 1,
33 1981, shall have an endorsement on the identification certificate stating that the
34 issuing agency approves the officer's carrying of a loaded firearm.

35 No endorsement or renewal endorsement issued pursuant to **paragraph (2)** shall
36 be effective unless it is in the format set forth in **subparagraph (D) of paragraph (1)**
37 **of subdivision (a) of Section 12027**, except that any peace officer listed in
38 **subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5**, who is
39 retired between January 2, 1981, and on or before December 31, 1988, and who is
40 authorized to carry a loaded firearm pursuant to **this section**, shall not be required
41 to have an endorsement in the format set forth in **subparagraph (D) of paragraph**
42 **(1) of subdivision (a) of Section 12027** until the time of the issuance, on or after
43 January 1, 1989, of a renewal endorsement pursuant to **paragraph (2)**.

1 (2) A retired peace officer, except an officer listed in Section 830.1 or 830.2,
2 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired
3 prior to January 1, 1981, shall petition the issuing agency for renewal of his or her
4 privilege to carry a loaded firearm every five years. An honorably retired peace
5 officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or
6 subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be
7 required to obtain an endorsement from the issuing agency to carry a loaded
8 firearm. The agency from which a peace officer is honorably retired may, upon
9 initial retirement of the peace officer, or at any time subsequent thereto, deny or
10 revoke for good cause the retired officer's privilege to carry a loaded firearm. A
11 peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section
12 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981,
13 shall have his or her privilege to carry a loaded firearm denied or revoked by
14 having the agency from which the officer retired stamp on the officer's
15 identification certificate "No CCW privilege."

16 (3) An honorably retired peace officer who is listed in subdivision (c) of Section
17 830.5 and authorized to carry loaded firearms by this subdivision shall meet the
18 training requirements of Section 832 and shall qualify with the firearm at least
19 annually. The individual retired peace officer shall be responsible for maintaining
20 his or her eligibility to carry a loaded firearm. The Department of Justice shall
21 provide subsequent arrest notification pursuant to Section 11105.2 regarding
22 honorably retired peace officers listed in subdivision (c) of Section 830.5 to the
23 agency from which the officer has retired.

24 (4) Members of the military forces of this state or of the United States engaged
25 in the performance of their duties.

26 (5) Persons who are using target ranges for the purpose of practice shooting with
27 a firearm or who are members of shooting clubs while hunting on the premises of
28 those clubs.

29 (6) The carrying of pistols, revolvers, or other firearms capable of being
30 concealed upon the person by persons who are authorized to carry those weapons
31 pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of
32 Part 4.

33 (7) Armored vehicle guards, as defined in Section 7521 of the Business and
34 Professions Code, (A) if hired prior to January 1, 1977, or (B) if hired on or after
35 that date, if they have received a firearms qualification card from the Department
36 of Consumer Affairs, in each case while acting within the course and scope of
37 their employment.

38 (8) Upon approval of the sheriff of the county in which they reside, honorably
39 retired federal officers or agents of federal law enforcement agencies, including,
40 but not limited to, the Federal Bureau of Investigation, the Secret Service, the
41 United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and
42 Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration,
43 the United States Border Patrol, and officers or agents of the Internal Revenue

1 Service who were authorized to carry weapons while on duty, who were assigned
2 to duty within the state for a period of not less than one year, or who retired from
3 active service in the state.

4 Retired federal officers or agents shall provide the sheriff with certification from
5 the agency from which they retired certifying their service in the state, the nature
6 of their retirement, and indicating the agency's concurrence that the retired federal
7 officer or agent should be accorded the privilege of carrying a loaded firearm.

8 Upon approval, the sheriff shall issue a permit to the retired federal officer or
9 agent indicating that he or she may carry a loaded firearm in accordance with **this**
10 **paragraph**. The permit shall be valid for a period not exceeding five years, shall be
11 carried by the retiree while carrying a loaded firearm, and may be revoked for
12 good cause.

13 The sheriff of the county in which the retired federal officer or agent resides
14 may require recertification prior to a permit renewal, and may suspend the
15 privilege for cause. The sheriff may charge a fee necessary to cover any
16 reasonable expenses incurred by the county.

17 (c) **Subdivision (a)** shall not apply to any of the following who have completed a
18 regular course in firearms training approved by the Commission on Peace Officer
19 Standards and Training:

20 (1) Patrol special police officers appointed by the police commission of any city,
21 county, or city and county under the express terms of its charter who also, under
22 the express terms of the charter, (A) are subject to suspension or dismissal after a
23 hearing on charges duly filed with the commission after a fair and impartial trial,
24 (B) are not less than 18 years of age or more than 40 years of age, (C) possess
25 physical qualifications prescribed by the commission, and (D) are designated by
26 the police commission as the owners of a certain beat or territory as may be fixed
27 from time to time by the police commission.

28 (2) The carrying of weapons by animal control officers or zookeepers, regularly
29 compensated as such by a governmental agency when acting in the course and
30 scope of their employment and when designated by a local ordinance or, if the
31 governmental agency is not authorized to act by ordinance, by a resolution, either
32 individually or by class, to carry the weapons, or by persons who are authorized to
33 carry the weapons pursuant to **Section 14502 of the Corporations Code**, while
34 actually engaged in the performance of their duties pursuant to that section.

35 (3) Harbor police officers designated pursuant to **Section 663.5 of the Harbors**
36 **and Navigation Code**.

37 (d) **Subdivision (a)** shall not apply to any of the following who have been issued
38 a certificate pursuant to **Section 12033**. The certificate shall not be required of any
39 person who is a peace officer, who has completed all training required by law for
40 the exercise of his or her power as a peace officer, and who is employed while not
41 on duty as a peace officer.

42 (1) Guards or messengers of common carriers, banks, and other financial
43 institutions while actually employed in and about the shipment, transportation, or

1 delivery of any money, treasure, bullion, bonds, or other thing of value within this
2 state.

3 (2) Guards of contract carriers operating armored vehicles pursuant to California
4 Highway Patrol and Public Utilities Commission authority (A) if hired prior to
5 January 1, 1977, or (B) if hired on or after January 1, 1977, if they have completed
6 a course in the carrying and use of firearms which meets the standards prescribed
7 by the Department of Consumer Affairs.

8 (3) Private investigators and private patrol operators who are licensed pursuant
9 to Chapter 11.5 (commencing with Section 7512) of, and alarm company
10 operators who are licensed pursuant to Chapter 11.6 (commencing with Section
11 7590) of, Division 3 of the Business and Professions Code, while acting within the
12 course and scope of their employment.

13 (4) Uniformed security guards or night watch persons employed by any public
14 agency, while acting within the scope and course of their employment.

15 (5) Uniformed security guards, regularly employed and compensated in that
16 capacity by persons engaged in any lawful business, and uniformed alarm agents
17 employed by an alarm company operator, while actually engaged in protecting and
18 preserving the property of their employers or on duty or en route to or from their
19 residences or their places of employment, and security guards and alarm agents en
20 route to or from their residences or employer-required range training. Nothing in
21 this paragraph shall be construed to prohibit cities and counties from enacting
22 ordinances requiring alarm agents to register their names.

23 (6) Uniformed employees of private patrol operators and private investigators
24 licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3
25 of the Business and Professions Code, while acting within the course and scope of
26 their employment.

27 (e) In order to determine whether or not a firearm is loaded for the purpose of
28 enforcing this section, peace officers are authorized to examine any firearm carried
29 by anyone on his or her person or in a vehicle while in any public place or on any
30 public street in an incorporated city or prohibited area of an unincorporated
31 territory. Refusal to allow a peace officer to inspect a firearm pursuant to this
32 section constitutes probable cause for arrest for violation of this section.

33 (f) As used in this section, “**prohibited area**” means any place where it is
34 unlawful to discharge a weapon.

35 (g) A firearm shall be deemed to be loaded for the purposes of this section when
36 there is an unexpended cartridge or shell, consisting of a case that holds a charge
37 of powder and a bullet or shot, in, or attached in any manner to, the firearm,
38 including, but not limited to, in the firing chamber, magazine, or clip thereof
39 attached to the firearm; except that a muzzle-loader firearm shall be deemed to be
40 loaded when it is capped or primed and has a powder charge and ball or shot in the
41 barrel or cylinder.

42 (h) Nothing in this section shall prevent any person engaged in any lawful
43 business, including a nonprofit organization, or any officer, employee, or agent

1 authorized by that person for lawful purposes connected with that business, from
2 having a loaded firearm within the person's place of business, or any person in
3 lawful possession of private property from having a loaded firearm on that
4 property.

5 (i) Nothing in **this section** shall prevent any person from carrying a loaded
6 firearm in an area within an incorporated city while engaged in hunting, provided
7 that the hunting at that place and time is not prohibited by the city council.

8 (j)(1) Nothing in **this section** is intended to preclude the carrying of any loaded
9 firearm, under circumstances where it would otherwise be lawful, by a person who
10 reasonably believes that the person or property of himself or herself or of another
11 is in immediate, grave danger and that the carrying of the weapon is necessary for
12 the preservation of that person or property. As used in **this subdivision**,
13 **"immediate"** means the brief interval before and after the local law enforcement
14 agency, when reasonably possible, has been notified of the danger and before the
15 arrival of its assistance.

16 (2) A violation of **this section** is justifiable when a person who possesses a
17 firearm reasonably believes that he or she is in grave danger because of
18 circumstances forming the basis of a current restraining order issued by a court
19 against another person or persons who has or have been found to pose a threat to
20 his or her life or safety. **This paragraph** may not apply when the circumstances
21 involve a mutual restraining order issued pursuant to **Division 10 (commencing**
22 **with Section 6200)** of the Family Code absent a factual finding of a specific threat
23 to the person's life or safety. It is not the intent of the Legislature to limit, restrict,
24 or narrow the application of current statutory or judicial authority to apply this or
25 other justifications to defendants charged with violating **Section 12025** or of
26 committing other similar offenses. Upon trial for violating **this section**, the trier of
27 fact shall determine whether the defendant was acting out of a reasonable belief
28 that he or she was in grave danger.

29 (k) Nothing in **this section** is intended to preclude the carrying of a loaded
30 firearm by any person while engaged in the act of making or attempting to make a
31 lawful arrest.

32 (l) Nothing in **this section** shall prevent any person from having a loaded
33 weapon, if it is otherwise lawful, at his or her place of residence, including any
34 temporary residence or campsite.

35 (m)(1) The district attorney of each county shall submit annually a report on or
36 before June 30, to the Attorney General consisting of profiles by race, age, gender,
37 and ethnicity of any person charged with a felony or a misdemeanor under **this**
38 **section** and any other offense charged in the same complaint, indictment, or
39 information.

40 (2) The Attorney General shall submit annually, a report on or before December
41 31, to the Legislature compiling all of the reports submitted pursuant to **paragraph**
42 **(1)**.

43 (3) **This subdivision** shall remain operative only until January 1, 2005.

1 **Penal Code § 12031.1. Rocket or other emergency or distress signaling device**

2 12031.1. Nothing in **Section 12031** shall prevent any person from storing aboard
3 any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile
4 launcher, or similar device designed primarily for emergency or distress signaling
5 purposes, or from possessing such a device while in a permitted hunting area or
6 traveling to or from such area and carrying a valid California permit or license to
7 hunt.

8 **Penal Code § 12032. Unclaimed firearm or firearm no longer needed as exhibit in criminal**
9 **case**

10 12032. Notwithstanding any provision of law or of any local ordinance to the
11 contrary, when any firearm is in the possession of any officer of the state, or of a
12 county, city and county or city, or of any campus of the University of California or
13 the California State University, and the firearm is an exhibit filed in any criminal
14 action or proceeding which is no longer needed or is unclaimed or abandoned
15 property, which has been in the possession of the officer for at least 180 days, the
16 firearm shall be sold, or destroyed, as provided for in **Section 12028**.

17 **This section** shall not apply to any firearm in the possession of the Department
18 of Fish and Game or which was used in the violation of **any provision of law, or**
19 **regulation thereunder, in the Fish and Game Code.**

20 **Penal Code § 12033. Certificate for carrying loaded firearm**

21 12033. The Department of Consumer Affairs may issue a certificate to any
22 person referred to in **subdivision (d) of Section 12031**, upon notification by the
23 school where the course was completed, that the person has successfully
24 completed a course in the carrying and use of firearms and a course of training in
25 the exercise of the powers of arrest which meet the standards prescribed by the
26 department pursuant to **Section 7583.5 of the Business and Professions Code.**

27 **Penal Code § 12034. Firearm in motor vehicle**

28 12034. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of
29 any motor vehicle, whether or not the owner of the vehicle is occupying the
30 vehicle, knowingly to permit any other person to carry into or bring into the
31 vehicle a firearm in violation of **Section 12031 of this code** or **Section 2006 of the**
32 **Fish and Game Code.**

33 (b) Any driver or owner of any vehicle, whether or not the owner of the vehicle
34 is occupying the vehicle, who knowingly permits any other person to discharge
35 any firearm from the vehicle is punishable by imprisonment in the county jail for
36 not more than one year or in state prison for 16 months or two or three years.

37 (c) Any person who willfully and maliciously discharges a firearm from a motor
38 vehicle at another person other than an occupant of a motor vehicle is guilty of a
39 felony punishable by imprisonment in state prison for three, five, or seven years.

1 (d) Except as provided in Section 3002 of the Fish and Game Code, any person
2 who willfully and maliciously discharges a firearm from a motor vehicle is guilty
3 of a public offense punishable by imprisonment in the county jail for not more
4 than one year or in the state prison.

5 **Penal Code § 12035. Criminal storage of firearm**

6 12035. (a) As used in this section, the following definitions apply:

7 (1) **“Locking device”** means a device that is designed to prevent the firearm
8 from functioning and when applied to the firearm, renders the firearm inoperable.

9 (2) **“Loaded firearm”** has the same meaning as set forth in subdivision (g) of
10 Section 12031.

11 (3) **“Child”** means a person under 18 years of age.

12 (4) **“Great bodily injury”** has the same meaning as set forth in Section
13 12022.7.

14 (5) **“Locked container”** has the same meaning as set forth in subdivision (d) of
15 Section 12026.2.

16 (b)(1) Except as provided in subdivision (c), a person commits the crime of
17 **“criminal storage of a firearm of the first degree”** if he or she keeps any loaded
18 firearm within any premises that are under his or her custody or control and he or
19 she knows or reasonably should know that a child is likely to gain access to the
20 firearm without the permission of the child’s parent or legal guardian and the child
21 obtains access to the firearm and thereby causes death or great bodily injury to
22 himself, herself, or any other person.

23 (2) Except as provided in subdivision (c), a person commits the crime of
24 **“criminal storage of a firearm of the second degree”** if he or she keeps any
25 loaded firearm within any premises that are under his or her custody or control and
26 he or she knows or reasonably should know that a child is likely to gain access to
27 the firearm without the permission of the child’s parent or legal guardian and the
28 child obtains access to the firearm and thereby causes injury, other than great
29 bodily injury, to himself, herself, or any other person, or carries the firearm either
30 to a public place or in violation of Section 417.

31 (c) Subdivision (b) shall not apply whenever any of the following occurs:

32 (1) The child obtains the firearm as a result of an illegal entry to any premises by
33 any person.

34 (2) The firearm is kept in a locked container or in a location that a reasonable
35 person would believe to be secure.

36 (3) The firearm is carried on the person or within such a close proximity thereto
37 that the individual can readily retrieve and use the firearm as if carried on the
38 person.

39 (4) The firearm is locked with a locking device that has rendered the firearm
40 inoperable.

1 (5) The person is a peace officer or a member of the armed forces or National
2 Guard and the child obtains the firearm during, or incidental to, the performance
3 of the person's duties.

4 (6) The child obtains, or obtains and discharges, the firearm in a lawful act of
5 self-defense or defense of another person, or persons.

6 (7) The person who keeps a loaded firearm on any premise that is under his or
7 her custody or control has no reasonable expectation, based on objective facts and
8 circumstances, that a child is likely to be present on the premises.

9 (d) Criminal storage of a firearm is punishable as follows:

10 (1) Criminal storage of a firearm in the first degree, by imprisonment in the state
11 prison for 16 months, or two or three years, by a fine not exceeding ten thousand
12 dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a
13 county jail not exceeding one year, by a fine not exceeding one thousand dollars
14 (\$1,000), or by both that fine and imprisonment.

15 (2) Criminal storage of a firearm in the second degree, by imprisonment in a
16 county jail not exceeding one year, by a fine not exceeding one thousand dollars
17 (\$1,000), or by both that imprisonment and fine.

18 (e) If the person who allegedly violated **this section** is the parent or guardian of a
19 child who is injured or who dies as the result of an accidental shooting, the district
20 attorney shall consider, among other factors, the impact of the injury or death on
21 the person alleged to have violated **this section** when deciding whether to
22 prosecute an alleged violation. It is the Legislature's intent that a parent or
23 guardian of a child who is injured or who dies as the result of an accidental
24 shooting shall be prosecuted only in those instances in which the parent or
25 guardian behaved in a grossly negligent manner or where similarly egregious
26 circumstances exist. **This subdivision** shall not otherwise restrict, in any manner,
27 the factors that a district attorney may consider when deciding whether to
28 prosecute alleged violations of **this section**.

29 (f) If the person who allegedly violated **this section** is the parent or guardian of a
30 child who is injured or who dies as the result of an accidental shooting, no arrest
31 of the person for the alleged violation of **this section** shall occur until at least seven
32 days after the date upon which the accidental shooting occurred.

33 In addition to the limitation contained in **this subdivision**, a law enforcement
34 officer shall consider the health status of a child who suffers great bodily injury as
35 the result of an accidental shooting prior to arresting a person for a violation of
36 **this section**, if the person to be arrested is the parent or guardian of the injured
37 child. The intent of **this subdivision** is to encourage law enforcement officials to
38 delay the arrest of a parent or guardian of a seriously injured child while the child
39 remains on life-support equipment or is in a similarly critical medical condition.

40 (g)(1) The fact that the person who allegedly violated **this section** attended a
41 firearm safety training course prior to the purchase of the firearm that is obtained
42 by a child in violation of **this section** shall be considered a mitigating factor by a

1 district attorney when he or she is deciding whether to prosecute the alleged
2 violation.

3 (2) In any action or trial commenced under **this section**, the fact that the person
4 who allegedly violated **this section** attended a firearm safety training course prior
5 to the purchase of the firearm that is obtained by a child in violation of **this**
6 **section**, shall be admissible.

7 (h) Every person licensed under **Section 12071** shall post within the licensed
8 premises the notice required by paragraph (7) of subdivision (b) of that section,
9 disclosing the duty imposed by **this section** upon any person who keeps a loaded
10 firearm.

11 **Penal Code § 12036. Storage of firearm where child obtains access and carries firearm off-**
12 **premises**

13 12036. (a) As used in **this section**, the following definitions shall apply:

14 (1) **“Locking device”** means a device that is designed to prevent the firearm
15 from functioning and when applied to the firearm, renders the firearm inoperable.

16 (2) **“Child”** means a person under the age of 18 years.

17 (3) **“Off-premises”** means premises other than the premises where the firearm
18 was stored.

19 (4) **“Locked container”** has the same meaning as set forth in **subdivision (d) of**
20 **Section 12026.2**.

21 (b) A person who keeps a pistol, revolver, or other firearm capable of being
22 concealed upon the person, loaded or unloaded, within any premises that are under
23 his or her custody or control and he or she knows or reasonably should know that a
24 child is likely to gain access to that firearm without the permission of the child’s
25 parent or legal guardian and the child obtains access to that firearm and thereafter
26 carries that firearm off-premises, shall be punished by imprisonment in a county
27 jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000),
28 or by both that imprisonment and fine.

29 (c) A person who keeps any firearm within any premises that is under his or her
30 custody or control and he or she knows or reasonably should know that a child is
31 likely to gain access to the firearm without the permission of the child’s parent or
32 legal guardian and the child obtains access to the firearm and thereafter carries that
33 firearm off-premises to any public or private preschool, elementary school, middle
34 school, high school, or to any school-sponsored event, activity, or performance
35 whether occurring on school grounds or elsewhere, shall be punished by
36 imprisonment in a county jail not exceeding one year, by a fine not exceeding five
37 thousand dollars (\$5,000), or by both that imprisonment and fine.

38 (d) A pistol, revolver, or other firearm capable of being concealed upon the
39 person that a child gains access to and carries off-premises in violation of **this**
40 **section** shall be deemed **“used in the commission of any misdemeanor as**
41 **provided in this code or any felony”** for the purpose of **subdivision (b) of**

1 Section 12028 regarding the authority to confiscate firearms and other deadly
2 weapons as a nuisance.

3 (e) This section shall not apply if any one of the following circumstances exists:

4 (1) The child obtains the firearm as a result of an illegal entry into any premises
5 by any person.

6 (2) The firearm is kept in a locked container or in a location that a reasonable
7 person would believe to be secure.

8 (3) The firearm is locked with a locking device that has rendered the firearm
9 inoperable.

10 (4) The firearm is carried on the person within such a close range that the
11 individual can readily retrieve and use the firearm as if carried on the person.

12 (5) The person is a peace officer or a member of the Armed Forces or National
13 Guard and the child obtains the firearm during, or incidental to, the performance
14 of the person's duties.

15 (6) The child obtains, or obtains and discharges, the firearm in a lawful act of
16 self-defense or defense of another person or persons.

17 (7) The person who keeps a firearm has no reasonable expectation, based on
18 objective facts and circumstances, that a child is likely to be present on the
19 premises.

20 (f) If the person who allegedly violated this section is the parent or guardian of a
21 child who is injured or who dies as the result of an accidental shooting, the district
22 attorney shall consider, among other factors, the impact of the injury or death on
23 the person alleged to have violated this section when deciding whether to
24 prosecute the alleged violation. It is the Legislature's intent that a parent or
25 guardian of a child who is injured or who dies as the result of an accidental
26 shooting shall be prosecuted only in those instances in which the parent or
27 guardian behaved in a grossly negligent manner or where similarly egregious
28 circumstances exist. This subdivision shall not otherwise restrict, in any manner,
29 the factors that a district attorney may consider when deciding whether to
30 prosecute alleged violations of this section.

31 (g) If the person who allegedly violated this section is the parent or guardian of a
32 child who is injured or who dies as the result of an accidental shooting, no arrest
33 of the person for the alleged violation of this section shall occur until at least seven
34 days after the date upon which the accidental shooting occurred.

35 In addition to the limitation contained in this subdivision, a law enforcement
36 officer shall consider the health status of a child who suffers great bodily injury as
37 the result of an accidental shooting prior to arresting a person for a violation of
38 this section, if the person to be arrested is the parent or guardian of the injured
39 child. The intent of this subdivision is to encourage law enforcement officials to
40 delay the arrest of a parent or guardian of a seriously injured child while the child
41 remains on life-support equipment or is in a similarly critical medical condition.

42 (h)(1) The fact that the person who allegedly violated this section attended a
43 firearm safety training course prior to the purchase of the firearm that is obtained

1 by a child in violation of **this section** shall be considered a mitigating factor by a
2 district attorney when he or she is deciding whether to prosecute the alleged
3 violation.

4 (2) In any action or trial commenced under **this section**, the fact that the person
5 who allegedly violated **this section** attended a firearm safety training course prior
6 to the purchase of the firearm that is obtained by a child in violation of **this**
7 **section**, shall be admissible.

8 (i) Every person licensed under **Section 12071** shall post within the licensed
9 premises the notice required by **paragraph (7) of subdivision (b) of that section**,
10 disclosing the duty imposed by **this section** upon any person who keeps any
11 firearm.

12 **Penal Code § 12039. Annual report by Attorney General on firearm use in crimes**

13 12039. The Attorney General shall provide the Legislature on or before April 15
14 of each year, commencing in 1998, a written report on the specific types of
15 firearms used in the commission of crimes based upon information obtained from
16 state and local crime laboratories. The report shall include all of the following
17 information regarding crimes in which firearms were used:

18 (a) A description of the relative occurrence of firearms most frequently used in
19 the commission of violent crimes, distinguishing whether the firearms used were
20 handguns, rifles, shotguns, assault weapons, or other related types of weapons.

21 (b) A description of specific types of firearms that are used in homicides or
22 street gang and drug trafficking crimes.

23 (c) The frequency with which stolen firearms were used in the commission of
24 the crimes.

25 (d) The frequency with which fully automatic firearms were used in the
26 commission of the crimes.

27 (e) Any trends of importance such as those involving specialized ammunition or
28 firearms modifications, such as conversion to a fully automatic weapon, removal
29 of serial number, shortening of barrel, or use of a suppressor.

30 **Penal Code § 12040. Carrying firearm in public while masked to hide identity**

31 12040. (a) A person commits criminal possession of a firearm when he or she
32 carries a firearm in a public place or on any public street while masked so as to
33 hide his or her identity.

34 (b) Criminal possession of a firearm is punishable by imprisonment in the state
35 prison or by imprisonment in a county jail not to exceed one year.

36 (c) **Subdivision (a)** shall not apply to the following:

37 (1) A peace officer who is in the performance of his or her duties.

38 (2) Full-time paid peace officers of other states and the federal government who
39 are carrying out official duties while in this state.

1 (3) Any person summoned by any of the officers enumerated in paragraph (1) or
2 (2) to assist in making arrests or preserving the peace while he or she is actually
3 engaged in assisting that officer.

4 (4) The possession of an unloaded firearm or a firearm loaded with blank
5 ammunition by an authorized participant in, or while rehearsing for, a motion
6 picture, television, video production, entertainment event, entertainment activity,
7 or lawfully organized and conducted activity when the participant lawfully uses
8 the firearm as part of that production, event, or activity.

9 (5) The possession of a firearm by a licensed hunter while actually engaged in
10 lawful hunting, or while going directly to or returning directly from the hunting
11 expedition.

12 Article 3. Licenses to Carry Pistols and Revolvers

13 **Penal Code § 12050. License to carry pistol, revolver, or other firearm capable of being** 14 **concealed upon person**

15 12050. (a)(1)(A) The sheriff of a county, upon proof that the person applying is
16 of good moral character, that good cause exists for the issuance, and that the
17 person applying satisfies any one of the conditions specified in subparagraph (D)
18 and has completed a course of training as described in subparagraph (E), may
19 issue to that person a license to carry a pistol, revolver, or other firearm capable of
20 being concealed upon the person in either one of the following formats:

21 (i) A license to carry concealed a pistol, revolver, or other firearm capable of
22 being concealed upon the person.

23 (ii) Where the population of the county is less than 200,000 persons according to
24 the most recent federal decennial census, a license to carry loaded and exposed in
25 that county a pistol, revolver, or other firearm capable of being concealed upon the
26 person.

27 (B) The chief or other head of a municipal police department of any city or city
28 and county, upon proof that the person applying is of good moral character, that
29 good cause exists for the issuance, and that the person applying is a resident of that
30 city and has completed a course of training as described in subparagraph (E), may
31 issue to that person a license to carry a pistol, revolver, or other firearm capable of
32 being concealed upon the person in either one of the following formats:

33 (i) A license to carry concealed a pistol, revolver, or other firearm capable of
34 being concealed upon the person.

35 (ii) Where the population of the county in which the city is located is less than
36 200,000 persons according to the most recent federal decennial census, a license to
37 carry loaded and exposed in that county a pistol, revolver, or other firearm capable
38 of being concealed upon the person.

39 (C) The sheriff of a county or the chief or other head of a municipal police
40 department of any city or city and county, upon proof that the person applying is
41 of good moral character, that good cause exists for the issuance, and that the

1 person applying is a person who has been deputized or appointed as a peace
2 officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that
3 chief of police or other head of a municipal police department, may issue to that
4 person a license to carry concealed a pistol, revolver, or other firearm capable of
5 being concealed upon the person. Direct or indirect fees for the issuance of a
6 license pursuant to this subparagraph may be waived. The fact that an applicant for
7 a license to carry a pistol, revolver, or other firearm capable of being concealed
8 upon the person has been deputized or appointed as a peace officer pursuant to
9 subdivision (a) or (b) of Section 830.6 shall be considered only for the purpose of
10 issuing a license pursuant to this subparagraph, and shall not be considered for the
11 purpose of issuing a license pursuant to subparagraph (A) or (B).

12 (D) For the purpose of subparagraph (A), the applicant shall satisfy any one of
13 the following:

14 (i) Is a resident of the county or a city within the county.

15 (ii) Spends a substantial period of time in the applicant's principal place of
16 employment or business in the county or a city within the county.

17 (E)(i) For new license applicants, the course of training may be any course
18 acceptable to the licensing authority, shall not exceed 16 hours, and shall include
19 instruction on at least firearm safety and the law regarding the permissible use of a
20 firearm. Notwithstanding this clause, the licensing authority may require a
21 community college course certified by the Commission on Peace Officer
22 Standards and Training, up to a maximum of 24 hours, but only if required
23 uniformly of all license applicants without exception.

24 (ii) For license renewal applicants, the course of training may be any course
25 acceptable to the licensing authority, shall be no less than four hours, and shall
26 include instruction on at least firearm safety and the law regarding the permissible
27 use of a firearm. No course of training shall be required for any person certified by
28 the licensing authority as a trainer for purposes of this subparagraph, in order for
29 that person to renew a license issued pursuant to this section.

30 (2)(A)(i) Except as otherwise provided in clause (ii), subparagraphs (C) and (D)
31 of this paragraph, and subparagraph (B) of paragraph (4) of subdivision (f), a
32 license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any
33 period of time not to exceed two years from the date of the license.

34 (ii) If the licensee's place of employment or business was the basis for issuance
35 of the license pursuant to subparagraph (A) of paragraph (1), the license is valid
36 for any period of time not to exceed 90 days from the date of the license. The
37 license shall be valid only in the county in which the license was originally issued.
38 The licensee shall give a copy of this license to the licensing authority of the city,
39 county, or city and county in which he or she resides. The licensing authority that
40 originally issued the license shall inform the licensee verbally and in writing in at
41 least 16-point type of this obligation to give a copy of the license to the licensing
42 authority of the city, county, or city and county of residence. Any application to
43 renew or extend the validity of, or reissue, the license may be granted only upon

1 the concurrence of the licensing authority that originally issued the license and the
2 licensing authority of the city, county, or city and county in which the licensee
3 resides.

4 (B) A license issued pursuant to subparagraph (C) of paragraph (1) to a peace
5 officer appointed pursuant to Section 830.6 is valid for any period of time not to
6 exceed four years from the date of the license, except that the license shall be
7 invalid upon the conclusion of the person's appointment pursuant to Section 830.6
8 if the four-year period has not otherwise expired or any other condition imposed
9 pursuant to this section does not limit the validity of the license to a shorter time
10 period.

11 (C) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is
12 valid for any period of time not to exceed three years from the date of the license
13 if the license is issued to any of the following individuals:

14 (i) A judge of a California court of record.

15 (ii) A full-time court commissioner of a California court of record.

16 (iii) A judge of a federal court.

17 (iv) A magistrate of a federal court.

18 (D) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is
19 valid for any period of time not to exceed four years from the date of the license if
20 the license is issued to a custodial officer who is an employee of the sheriff as
21 provided in Section 831.5, except that the license shall be invalid upon the
22 conclusion of the person's employment pursuant to Section 831.5 if the four-year
23 period has not otherwise expired or any other condition imposed pursuant to this
24 section does not limit the validity of the license to a shorter time period.

25 (3) For purposes of this subdivision, a city or county may be considered an
26 applicant's "**principal place of employment or business**" only if the applicant is
27 physically present in the jurisdiction during a substantial part of his or her working
28 hours for purposes of that employment or business.

29 (b) A license may include any reasonable restrictions or conditions which the
30 issuing authority deems warranted, including restrictions as to the time, place,
31 manner, and circumstances under which the person may carry a pistol, revolver, or
32 other firearm capable of being concealed upon the person.

33 (c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on
34 any license issued.

35 (d) A license shall not be issued if the Department of Justice determines that the
36 person is prohibited by state or federal law from possessing, receiving, owning, or
37 purchasing a firearm.

38 (e)(1) The license shall be revoked by the local licensing authority if at any time
39 either the local licensing authority is notified by the Department of Justice that a
40 licensee is prohibited by state or federal law from owning or purchasing firearms,
41 or the local licensing authority determines that the person is prohibited by state or
42 federal law from possessing, receiving, owning, or purchasing a firearm.

1 (2) If at any time the Department of Justice determines that a licensee is
2 prohibited by state or federal law from possessing, receiving, owning, or
3 purchasing a firearm, the department shall immediately notify the local licensing
4 authority of the determination.

5 (3) If the local licensing authority revokes the license, the Department of Justice
6 shall be notified of the revocation pursuant to Section 12053. The licensee shall
7 also be immediately notified of the revocation in writing.

8 (f)(1) A person issued a license pursuant to this section may apply to the
9 licensing authority for an amendment to the license to do one or more of the
10 following:

11 (A) Add or delete authority to carry a particular pistol, revolver, or other firearm
12 capable of being concealed upon the person.

13 (B) Authorize the licensee to carry concealed a pistol, revolver, or other firearm
14 capable of being concealed upon the person.

15 (C) If the population of the county is less than 200,000 persons according to the
16 most recent federal decennial census, authorize the licensee to carry loaded and
17 exposed in that county a pistol, revolver, or other firearm capable of being
18 concealed upon the person.

19 (D) Change any restrictions or conditions on the license, including restrictions as
20 to the time, place, manner, and circumstances under which the person may carry a
21 pistol, revolver, or other firearm capable of being concealed upon the person.

22 (2) When the licensee changes his or her address, the license shall be amended
23 to reflect the new address and a new license shall be issued pursuant to paragraph
24 (3).

25 (3) If the licensing authority amends the license, a new license shall be issued to
26 the licensee reflecting the amendments.

27 (4)(A) The licensee shall notify the licensing authority in writing within 10 days
28 of any change in the licensee's place of residence.

29 (B) If the license is one to carry concealed a pistol, revolver, or other firearm
30 capable of being concealed upon the person, then it may not be revoked solely
31 because the licensee changes his or her place of residence to another county if the
32 licensee has not breached any conditions or restrictions set forth in the license and
33 has not become prohibited by state or federal law from possessing, receiving,
34 owning, or purchasing a firearm. However, any license issued pursuant to
35 subparagraph (A) or (B) of paragraph (1) of subdivision (a) shall expire 90 days
36 after the licensee moves from the county of issuance if the licensee's place of
37 residence was the basis for issuance of the license.

38 (C) If the license is one to carry loaded and exposed a pistol, revolver, or other
39 firearm capable of being concealed upon the person, the license shall be revoked
40 immediately if the licensee changes his or her place of residence to another
41 county.

1 (5) An amendment to the license does not extend the original expiration date of
2 the license and the license shall be subject to renewal at the same time as if the
3 license had not been amended.

4 (6) An application to amend a license does not constitute an application for
5 renewal of the license.

6 (g) Nothing in **this article** shall preclude the chief or other head of a municipal
7 police department of any city from entering an agreement with the sheriff of the
8 county in which the city is located for the sheriff to process all applications for
9 licenses, renewals of licenses, and amendments to licenses, pursuant to **this article**.

10 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
11 2008 Cal. Stat. ch. 698.

12 **Penal Code § 12050.2. Written policy**

13 12050.2. Within three months of the effective date of the act adding **this section**,
14 each licensing authority shall publish and make available a written policy
15 summarizing the provisions of **subparagraphs (A) and (B) of paragraph (1) of**
16 **subdivision (a) of Section 12050.**

17 **Penal Code § 12051. License application**

18 12051. (a)(1) The standard application form for licenses described in **paragraph**
19 **(3)** shall require information from the applicant including, but not limited to, the
20 name, occupation, residence and business address of the applicant, his or her age,
21 height, weight, color of eyes and hair, and reason for desiring a license to carry the
22 weapon. Applications for licenses shall be filed in writing, and signed by the
23 applicant. Any license issued upon the application shall set forth the licensee's
24 name, occupation, residence and business address, his or her age, height, weight,
25 color of eyes and hair, the reason for desiring a license to carry the weapon, and
26 shall, in addition, contain a description of the weapon or weapons authorized to be
27 carried, giving the name of the manufacturer, the serial number, and the caliber.
28 The license issued to the licensee may be laminated.

29 (2) Applications for amendments to licenses shall be filed in writing and signed
30 by the applicant, and shall state what type of amendment is sought pursuant to
31 **subdivision (f) of Section 12050** and the reason for desiring the amendment.

32 (3)(A) Applications for amendments to licenses, applications for licenses,
33 amendments to licenses, and licenses shall be uniform throughout the state, upon
34 forms to be prescribed by the Attorney General. The Attorney General shall
35 convene a committee composed of one representative of the California State
36 Sheriffs' Association, one representative of the California Police Chiefs'
37 Association, and one representative of the Department of Justice to review, and as
38 deemed appropriate, revise the standard application form for licenses. The
39 committee shall meet for this purpose if two of the committee's members deem
40 that necessary. The application shall include a section summarizing the statutory
41 provisions of state law that result in the automatic denial of a license.

1 (B) The forms shall contain a provision whereby the applicant attests to the truth
2 of statements contained in the application.

3 (C) An applicant shall not be required to complete any additional application or
4 form for a license, or to provide any information other than that necessary to
5 complete the standard application form described in **subparagraph (A)**, except to
6 clarify or interpret information provided by the applicant on the standard
7 application form.

8 (D) The standard application form described in **subparagraph (A)** is deemed to
9 be a local form expressly exempt from the requirements of **the Administrative**
10 **Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of**
11 **Division 3 of Title 2 of the Government Code.**

12 (b) Any person who files an application required by **subdivision (a)** knowing
13 that statements contained therein are false is guilty of a misdemeanor.

14 (c) Any person who knowingly makes a false statement on the application
15 regarding any of the following shall be guilty of a felony:

16 (1) The denial or revocation of a license, or the denial of an amendment to a
17 license, issued pursuant to **Section 12050**.

18 (2) A criminal conviction.

19 (3) A finding of not guilty by reason of insanity.

20 (4) The use of a controlled substance.

21 (5) A dishonorable discharge from military service.

22 (6) A commitment to a mental institution.

23 (7) A renunciation of United States citizenship.

24 **Penal Code § 12052. Fingerprinting and Department of Justice report**

25 12052. (a) The fingerprints of each applicant shall be taken and two copies on
26 forms prescribed by the Department of Justice shall be forwarded to the
27 department. Upon receipt of the fingerprints and the fee as prescribed in **Section**
28 **12054**, the department shall promptly furnish the forwarding licensing authority a
29 report of all data and information pertaining to any applicant of which there is a
30 record in its office, including information as to whether the person is prohibited by
31 state or federal law from possessing, receiving, owning, or purchasing a firearm.
32 No license shall be issued by any licensing authority until after receipt of the
33 report from the department.

34 (b) However, if the license applicant has previously applied to the same
35 licensing authority for a license to carry firearms pursuant to **Section 12050** and
36 the applicant's fingerprints and fee have been previously forwarded to the
37 Department of Justice, as provided by **this section**, the licensing authority shall
38 note the previous identification numbers and other data that would provide
39 positive identification in the files of the Department of Justice on the copy of any
40 subsequent license submitted to the department in conformance with **Section**
41 **12053** and no additional application form or fingerprints shall be required.

1 (c) If the license applicant has a license issued pursuant to **Section 12050** and the
2 applicant's fingerprints have been previously forwarded to the Department of
3 Justice, as provided in **this section**, the licensing authority shall note the previous
4 identification numbers and other data that would provide positive identification in
5 the files of the Department of Justice on the copy of any subsequent license
6 submitted to the department in conformance with **Section 12053** and no additional
7 fingerprints shall be required.

8 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
9 2008 Cal. Stat. ch. 698.

10 **Penal Code § 12052.5. Notification of applicant**

11 12052.5. The licensing authority shall give written notice to the applicant
12 indicating if the license is approved or denied within 90 days of the initial
13 application for a new license or a license renewal or 30 days after receipt of the
14 applicant's criminal background check from the Department of Justice, whichever
15 is later.

16 **Penal Code § 12053. Duties of licensing authority**

17 12053. (a) A record of the following shall be maintained in the office of the
18 licensing authority:

- 19 (1) The denial of a license.
- 20 (2) The denial of an amendment to a license.
- 21 (3) The issuance of a license.
- 22 (4) The amendment of a license.
- 23 (5) The revocation of a license.

24 (b) Copies of each of the following shall be filed immediately by the issuing
25 officer or authority with the Department of Justice:

- 26 (1) The denial of a license.
- 27 (2) The denial of an amendment to a license.
- 28 (3) The issuance of a license.
- 29 (4) The amendment of a license.
- 30 (5) The revocation of a license.

31 (c) Commencing on or before January 1, 2000, and annually thereafter, each
32 licensing authority shall submit to the Attorney General the total number of
33 licenses issued to peace officers, pursuant to **subparagraph (C) of paragraph (1) of**
34 **subdivision (a) of Section 12050**, and to judges, pursuant to **subparagraph (A) or**
35 **(B) of paragraph (1) of subdivision (a) of Section 12050**. The Attorney General
36 shall collect and record the information submitted pursuant to **this subdivision** by
37 county and licensing authority.

38 **Penal Code § 12054. Application fee**

39 12054. (a) Each applicant for a new license or for the renewal of a license shall
40 pay at the time of filing his or her application a fee determined by the Department

1 of Justice not to exceed the application processing costs of the Department of
2 Justice for the direct costs of furnishing the report required by Section 12052.
3 After the department establishes fees sufficient to reimburse the department for
4 processing costs, fees charged shall increase at a rate not to exceed the
5 legislatively approved annual cost-of-living adjustments for the department's
6 budget. The officer receiving the application and the fee shall transmit the fee,
7 with the fingerprints if required, to the Department of Justice. The licensing
8 authority of any city, city and county, or county may charge an additional fee in an
9 amount equal to the actual costs for processing the application for a new license,
10 excluding fingerprint and training costs, but in no case to exceed one hundred
11 dollars (\$100), and shall transmit the additional fee, if any, to the city, city and
12 county, or county treasury. The first 20 percent of this additional local fee may be
13 collected upon filing of the initial application. The balance of the fee shall be
14 collected only upon issuance of the license.

15 The licensing authority may charge an additional fee, not to exceed twenty-five
16 dollars (\$25), for processing the application for a license renewal, and shall
17 transmit an additional fee, if any, to the city, city and county, or county treasury.
18 These local fees may be increased at a rate not to exceed any increase in the
19 California Consumer Price Index as compiled and reported by the California
20 Department of Industrial Relations.

21 (b) In the case of an amended license pursuant to subdivision (f) of Section
22 12050, the licensing authority of any city, city and county, or county may charge a
23 fee, not to exceed ten dollars (\$10), except that the fee may be increased at a rate
24 not to exceed any increase in the California Consumer Price Index as compiled
25 and reported by the California Department of Industrial Relations, for processing
26 the amended license and shall transmit the fee to the city, city and county, or
27 county treasury.

28 (c) If psychological testing on the initial application is required by the licensing
29 authority, the license applicant shall be referred to a licensed psychologist used by
30 the licensing authority for the psychological testing of its own employees. The
31 applicant may be charged for the actual cost of the testing in an amount not to
32 exceed one hundred fifty dollars (\$150). Additional psychological testing of an
33 applicant seeking license renewal shall be required only if there is compelling
34 evidence to indicate that a test is necessary. The cost to the applicant for this
35 additional testing shall not exceed one hundred fifty dollars (\$150).

36 (d) Except as authorized pursuant to subdivisions (a), (b), and (c), no
37 requirement, charge, assessment, fee, or condition that requires the payment of any
38 additional funds by the applicant may be imposed by any licensing authority as a
39 condition of the application for a license.

1 Article 4. Licenses to Sell Firearms

2 **Penal Code § 12070. License requirement for sale, lease, or transfer of firearms**

3 12070. (a) No person shall sell, lease, or transfer firearms unless he or she has
4 been issued a license pursuant to Section 12071. Any person violating this section
5 is guilty of a misdemeanor.

6 (b) Subdivision (a) does not include any of the following:

7 (1) The sale, lease, or transfer of any firearm by a person acting pursuant to
8 operation of law, a court order, or pursuant to the Enforcement of Judgments Law
9 (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil
10 Procedure), or by a person who liquidates a personal firearm collection to satisfy a
11 court judgment.

12 (2) A person acting pursuant to subdivision (e) of Section 186.22a or
13 subdivision (c) of Section 12028.

14 (3) The sale, lease, or transfer of a firearm by a person who obtains title to the
15 firearm by intestate succession or by bequest or as a surviving spouse pursuant to
16 Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate
17 Code, provided the person disposes of the firearm within 60 days of receipt of the
18 firearm.

19 (4) The infrequent sale, lease, or transfer of firearms.

20 (5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or
21 other firearms capable of being concealed upon the person, at gun shows or
22 events, as specified in Section 12071, by a person other than a licensee or dealer,
23 provided the person has a valid federal firearms license and a current certificate of
24 eligibility issued by the Department of Justice, as specified in Section 12071, and
25 provided all the sales, leases, or transfers fully comply with subdivision (d) of
26 Section 12072. However, the person shall not engage in the sale, lease, or transfer
27 of used firearms other than pistols, revolvers, or other firearms capable of being
28 concealed upon the person at more than 12 gun shows or events in any calendar
29 year and shall not sell, lease, or transfer more than 15 used firearms other than
30 pistols, revolvers, or other firearms capable of being concealed upon the person at
31 any single gun show or event. In no event shall the person sell more than 75 used
32 firearms other than pistols, revolvers, or other firearms capable of being concealed
33 upon the person in any calendar year.

34 A person described in this paragraph shall be known as a **“Gun Show Trader.”**

35 The Department of Justice shall adopt regulations to administer this program
36 and shall recover the full costs of administration from fees assessed applicants.

37 As used in this paragraph, the term **“used firearm”** means a firearm that has
38 been sold previously at retail and is more than three years old.

39 (6) Deliveries, sales, or transfers of firearms between or to importers and
40 manufacturers of firearms licensed to engage in business pursuant to Chapter 44
41 (commencing with Section 921) of Title 18 of the United States Code and the
42 regulations issued pursuant thereto.

1 (7) The sale, delivery, or transfer of firearms by manufacturers or importers
2 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
3 United States Code and the regulations issued pursuant thereto to dealers or
4 wholesalers.

5 (8) Deliveries and transfers of firearms made pursuant to Section 12028,
6 12028.5, or 12030.

7 (9) The loan of a firearm for the purposes of shooting at targets, if the loan
8 occurs on the premises of a target facility which holds a business or regulatory
9 license or on the premises of any club or organization organized for the purposes
10 of practicing shooting at targets upon established ranges, whether public or
11 private, if the firearm is at all times kept within the premises of the target range or
12 on the premises of the club or organization.

13 (10) Sales, deliveries, or transfers of firearms by manufacturers, importers, or
14 wholesalers licensed pursuant to Chapter 44 (commencing with Section 921) of
15 Title 18 of the United States Code and the regulations issued pursuant thereto to
16 persons who reside outside this state who are licensed pursuant to Chapter 44
17 (commencing with Section 921) of Title 18 of the United States Code and the
18 regulations issued pursuant thereto, if the sale, delivery, or transfer is in
19 accordance with Chapter 44 (commencing with Section 921) of Title 18 of the
20 United States Code and the regulations issued pursuant thereto.

21 (11) Sales, deliveries, or transfers of firearms by persons who reside outside this
22 state and are licensed outside this state pursuant to Chapter 44 (commencing with
23 Section 921) of Title 18 of the United States Code and the regulations issued
24 pursuant thereto to wholesalers, manufacturers, or importers, if the sale, delivery,
25 or transfer is in accordance with Chapter 44 (commencing with Section 921) of
26 Title 18 of the United States Code and the regulations issued pursuant thereto.

27 (12) Sales, deliveries, or transfers of firearms by wholesalers to dealers.

28 (13) Sales, deliveries, or transfers of firearms by persons who reside outside this
29 state to persons licensed pursuant to Section 12071, if the sale, delivery, or transfer
30 is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of
31 the United States Code, and the regulations issued pursuant thereto.

32 (14) Sales, deliveries, or transfers of firearms by persons who reside outside this
33 state and are licensed pursuant to Chapter 44 (commencing with Section 921) of
34 Title 18 of the United States Code and the regulations issued pursuant thereto to
35 dealers, if the sale, delivery, or transfer is in accordance with Chapter 44
36 (commencing with Section 921) of Title 18 of the United States Code and the
37 regulations issued pursuant thereto.

38 (15) The delivery, sale, or transfer of an unloaded firearm by one wholesaler to
39 another wholesaler if that firearm is intended as merchandise in the receiving
40 wholesaler's business.

41 (16) The loan of an unloaded firearm or the loan of a firearm loaded with blank
42 cartridges for use solely as a prop for a motion picture, television, or video
43 production or entertainment or theatrical event.

1 (17) The delivery of an unloaded firearm that is a curio or relic, as defined in
2 Section 478.11 of Title 27 of the Code of Federal Regulations, by a person
3 licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of
4 Title 18 of the United States Code and the regulations issued pursuant thereto with
5 a current certificate of eligibility issued pursuant to Section 12071 to a dealer.

6 (c)(1) As used in this section, “**infrequent**” means:

7 (A) For pistols, revolvers, and other firearms capable of being concealed upon
8 the person, less than six transactions per calendar year. For this purpose,
9 “**transaction**” means a single sale, lease, or transfer of any number of pistols,
10 revolvers, or other firearms capable of being concealed upon the person.

11 (B) For firearms other than pistols, revolvers, or other firearms capable of being
12 concealed upon the person, occasional and without regularity.

13 (2) As used in this section, “**operation of law**” includes, but is not limited to,
14 any of the following:

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

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

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

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

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

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

27 (G) A transmutation of property between spouses pursuant to Section 850 of the
28 Family Code.

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

31 (I) The transfer of a firearm by a law enforcement agency to the person who
32 found the firearm where the delivery is to the person as the finder of the firearm
33 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3
34 of the Civil Code.

35 **Penal Code § 12071. Issuance, forfeiture, and conditions of license to sell firearms at retail**

36 12071. (a)(1) As used in this chapter, the term “**licensee,**” “**person licensed**
37 **pursuant to Section 12071,**” or “**dealer**” means a person who has all of the
38 following:

39 (A) A valid federal firearms license.

40 (B) Any regulatory or business license, or licenses, required by local
41 government.

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

1 (D) A certificate of eligibility issued by the Department of Justice pursuant to
2 paragraph (4).

3 (E) A license issued in the format prescribed by paragraph (6).

4 (F) Is among those recorded in the centralized list specified in subdivision (e).

5 (2) The duly constituted licensing authority of a city, county, or a city and
6 county shall accept applications for, and may grant licenses permitting, licensees
7 to sell firearms at retail within the city, county, or city and county. The duly
8 constituted licensing authority shall inform applicants who are denied licenses of
9 the reasons for the denial in writing.

10 (3) No license shall be granted to any applicant who fails to provide a copy of
11 his or her valid federal firearms license, valid seller's permit issued by the State
12 Board of Equalization, and the certificate of eligibility described in paragraph (4).

13 (4) A person may request a certificate of eligibility from the Department of
14 Justice. The Department of Justice shall examine its records and records available
15 to the department in the National Instant Criminal Background Check System in
16 order to determine if the applicant is prohibited by state or federal law from
17 possessing, receiving, owning, or purchasing a firearm and issue a certificate to an
18 applicant if the department's records indicate that the applicant is not a person
19 who is prohibited by state or federal law from possessing firearms.

20 (5) The department shall adopt regulations to administer the certificate of
21 eligibility program and shall recover the full costs of administering the program by
22 imposing fees assessed to applicants who apply for those certificates.

23 (6) A license granted by the duly constituted licensing authority of any city,
24 county, or city and county, shall be valid for not more than one year from the date
25 of issuance and shall be in one of the following forms:

26 (A) In the form prescribed by the Attorney General.

27 (B) A regulatory or business license that states on its face "Valid for Retail Sales
28 of Firearms" and is endorsed by the signature of the issuing authority.

29 (C) A letter from the duly constituted licensing authority having primary
30 jurisdiction for the applicant's intended business location stating that the
31 jurisdiction does not require any form of regulatory or business license or does not
32 otherwise restrict or regulate the sale of firearms.

33 (7) Local licensing authorities may assess fees to recover their full costs of
34 processing applications for licenses.

35 (b) A license is subject to forfeiture for a breach of any of the following
36 prohibitions and requirements:

37 (1)(A) Except as provided in subparagraphs (B) and (C), the business shall be
38 conducted only in the buildings designated in the license.

39 (B) A person licensed pursuant to subdivision (a) may take possession of
40 firearms and commence preparation of registers for the sale, delivery, or transfer
41 of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the
42 Code of Federal Regulations, or its successor, if the gun show or event is not
43 conducted from any motorized or towed vehicle. A person conducting business

1 pursuant to this subparagraph shall be entitled to conduct business as authorized
2 herein at any gun show or event in the state without regard to the jurisdiction
3 within this state that issued the license pursuant to subdivision (a), provided the
4 person complies with (i) all applicable laws, including, but not limited to, the
5 waiting period specified in subparagraph (A) of paragraph (3), and (ii) all
6 applicable local laws, regulations, and fees, if any.

7 A person conducting business pursuant to this subparagraph shall publicly
8 display his or her license issued pursuant to subdivision (a), or a facsimile thereof,
9 at any gun show or event, as specified in this subparagraph.

10 (C) A person licensed pursuant to subdivision (a) may engage in the sale and
11 transfer of firearms other than pistols, revolvers, or other firearms capable of being
12 concealed upon the person, at events specified in subdivision (g) of Section 12078,
13 subject to the prohibitions and restrictions contained in that subdivision.

14 A person licensed pursuant to subdivision (a) also may accept delivery of
15 firearms other than pistols, revolvers, or other firearms capable of being concealed
16 upon the person, outside the building designated in the license, provided the
17 firearm is being donated for the purpose of sale or transfer at an auction or similar
18 event specified in subdivision (g) of Section 12078.

19 (D) The firearm may be delivered to the purchaser, transferee, or person being
20 loaned the firearm at one of the following places:

21 (i) The building designated in the license.

22 (ii) The places specified in subparagraph (B) or (C).

23 (iii) The place of residence of, the fixed place of business of, or on private
24 property owned or lawfully possessed by, the purchaser, transferee, or person
25 being loaned the firearm.

26 (2) The license or a copy thereof, certified by the issuing authority, shall be
27 displayed on the premises where it can easily be seen.

28 (3) No firearm shall be delivered:

29 (A) Within 10 days of the application to purchase, or, after notice by the
30 department pursuant to subdivision (d) of Section 12076, within 10 days of the
31 submission to the department of any correction to the application, or within 10
32 days of the submission to the department of any fee required pursuant to
33 subdivision (e) of Section 12076, whichever is later.

34 (B) Unless unloaded and securely wrapped or unloaded and in a locked
35 container.

36 (C) Unless the purchaser, transferee, or person being loaned the firearm presents
37 clear evidence of his or her identity and age to the dealer.

38 (D) Whenever the dealer is notified by the Department of Justice that the person
39 is prohibited by state or federal law from processing, owning, purchasing, or
40 receiving a firearm. The dealer shall make available to the person in the prohibited
41 class a prohibited notice and transfer form, provided by the department, stating
42 that the person is prohibited from owning or possessing a firearm, and that the
43 person may obtain from the department the reason for the prohibition.

1 (4) No pistol, revolver, or other firearm or imitation thereof capable of being
2 concealed upon the person, or placard advertising the sale or other transfer thereof,
3 shall be displayed in any part of the premises where it can readily be seen from the
4 outside.

5 (5) The licensee shall agree to and shall act properly and promptly in processing
6 firearms transactions pursuant to Section 12082.

7 (6) The licensee shall comply with Sections 12073, 12076, and 12077,
8 subdivisions (a) and (b) and paragraph (1) of subdivision (f) of Section 12072, and
9 subdivision (a) of Section 12316.

10 (7) The licensee shall post conspicuously within the licensed premises the
11 following warnings in block letters not less than one inch in height:

12 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES
13 UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18
14 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR
15 DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF
16 A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM
17 IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A
18 LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

19 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM
20 CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY
21 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON
22 UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND
23 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A
24 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED
25 CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO
26 KEEP IT FROM TEMPORARILY FUNCTIONING."

27 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER
28 YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF
29 AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-
30 PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY
31 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE
32 THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN
33 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING
34 DEVICE."

35 (D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS,
36 CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN
37 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
38 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL
39 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH
40 HANDS THOROUGHLY AFTER EXPOSURE."

41 (E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE
42 PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING
43 OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL

1 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO
2 THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN
3 ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

4 (F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE
5 MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE
6 OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY
7 PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO
8 HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL,
9 REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED
10 UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

11 (8)(A) Commencing April 1, 1994, and until January 1, 2003, no pistol,
12 revolver, or other firearm capable of being concealed upon the person shall be
13 delivered unless the purchaser, transferee, or person being loaned the firearm
14 presents to the dealer a basic firearms safety certificate.

15 (B) Commencing January 1, 2003, no dealer may deliver a handgun unless the
16 person receiving the handgun presents to the dealer a valid handgun safety
17 certificate. The firearms dealer shall retain a photocopy of the handgun safety
18 certificate as proof of compliance with this requirement.

19 (C) Commencing January 1, 2003, no handgun may be delivered unless the
20 purchaser, transferee, or person being loaned the firearm presents documentation
21 indicating that he or she is a California resident. Satisfactory documentation shall
22 include a utility bill from within the last three months, a residential lease, a
23 property deed, or military permanent duty station orders indicating assignment
24 within this state, or other evidence of residency as permitted by the Department of
25 Justice. The firearms dealer shall retain a photocopy of the documentation as proof
26 of compliance with this requirement.

27 (D) Commencing January 1, 2003, except as authorized by the department, no
28 firearms dealer may deliver a handgun unless the recipient performs a safe
29 handling demonstration with that handgun. The demonstration shall commence
30 with the handgun unloaded and locked with the firearm safety device with which it
31 is required to be delivered, if applicable. While maintaining muzzle awareness,
32 that is, the firearm is pointed in a safe direction, preferably down at the ground,
33 and trigger discipline, that is, the trigger finger is outside of the trigger guard and
34 along side of the handgun frame, at all times, the handgun recipient shall correctly
35 and safely perform the following:

36 (i) If the handgun is a semiautomatic pistol:

37 (I) Remove the magazine.

38 (II) Lock the slide back. If the model of firearm does not allow the slide to be
39 locked back, pull the slide back, visually and physically check the chamber to
40 ensure that it is clear.

41 (III) Visually and physically inspect the chamber, to ensure that the handgun is
42 unloaded.

1 (IV) Remove the firearm safety device, if applicable. If the firearm safety device
2 prevents any of the previous steps, remove the firearm safety device during the
3 appropriate step.

4 (V) Load one bright orange, red, or other readily identifiable dummy round into
5 the magazine. If no readily identifiable dummy round is available, an empty
6 cartridge casing with an empty primer pocket may be used.

7 (VI) Insert the magazine into the magazine well of the firearm.

8 (VII) Manipulate the slide release or pull back and release the slide.

9 (VIII) Remove the magazine.

10 (IX) Visually inspect the chamber to reveal that a round can be chambered with
11 the magazine removed.

12 (X) Lock the slide back to eject the bright orange, red, or other readily
13 identifiable dummy round. If the handgun is of a model that does not allow the
14 slide to be locked back, pull the slide back and physically check the chamber to
15 ensure that the chamber is clear. If no readily identifiable dummy round is
16 available, an empty cartridge casing with an empty primer pocket may be used.

17 (XI) Apply the safety, if applicable.

18 (XII) Apply the firearm safety device, if applicable. This requirement shall not
19 apply to an Olympic competition pistol if no firearms safety device, other than a
20 cable lock that the department has determined would damage the barrel of the
21 pistol, has been approved for the pistol, and the pistol is either listed in paragraph
22 (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of
23 subdivision (h) of Section 12132.

24 (ii) If the handgun is a double-action revolver:

25 (I) Open the cylinder.

26 (II) Visually and physically inspect each chamber, to ensure that the revolver is
27 unloaded.

28 (III) Remove the firearm safety device. If the firearm safety device prevents any
29 of the previous steps, remove the firearm safety device during the appropriate step.

30 (IV) While maintaining muzzle awareness and trigger discipline, load one bright
31 orange, red, or other readily identifiable dummy round into a chamber of the
32 cylinder and rotate the cylinder so that the round is in the next-to-fire position. If
33 no readily identifiable dummy round is available, an empty cartridge casing with
34 an empty primer pocket may be used.

35 (V) Close the cylinder.

36 (VI) Open the cylinder and eject the round.

37 (VII) Visually and physically inspect each chamber to ensure that the revolver is
38 unloaded.

39 (VIII) Apply the firearm safety device, if applicable. This requirement shall not
40 apply to an Olympic competition pistol if no firearms safety device, other than a
41 cable lock that the department has determined would damage the barrel of the
42 pistol, has been approved for the pistol, and the pistol is either listed in paragraph

1 (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of
2 subdivision (h) of Section 12132.

3 (iii) If the handgun is a single-action revolver:

4 (I) Open the loading gate.

5 (II) Visually and physically inspect each chamber, to ensure that the revolver is
6 unloaded.

7 (III) Remove the firearm safety device required to be sold with the handgun. If
8 the firearm safety device prevents any of the previous steps, remove the firearm
9 safety device during the appropriate step.

10 (IV) Load one bright orange, red, or other readily identifiable dummy round into
11 a chamber of the cylinder, close the loading gate and rotate the cylinder so that the
12 round is in the next-to-fire position. If no readily identifiable dummy round is
13 available, an empty cartridge casing with an empty primer pocket may be used.

14 (V) Open the loading gate and unload the revolver.

15 (VI) Visually and physically inspect each chamber to ensure that the revolver is
16 unloaded.

17 (VII) Apply the firearm safety device, if applicable. This requirement shall not
18 apply to an Olympic competition pistol if no firearms safety device, other than a
19 cable lock that the department has determined would damage the barrel of the
20 pistol, has been approved for the pistol, and the pistol is either listed in paragraph
21 (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of
22 subdivision (h) of Section 12132.

23 (E) The recipient shall receive instruction regarding how to render that handgun
24 safe in the event of a jam.

25 (F) The firearms dealer shall sign and date an affidavit stating that the
26 requirements of subparagraph (D) have been met. The firearms dealer shall
27 additionally obtain the signature of the handgun purchaser on the same affidavit.
28 The firearms dealer shall retain the original affidavit as proof of compliance with
29 this requirement.

30 (G) The recipient shall perform the safe handling demonstration for a
31 department-certified instructor.

32 (H) No demonstration shall be required if the dealer is returning the handgun to
33 the owner of the handgun.

34 (I) Department-certified instructors who may administer the safe handling
35 demonstration shall meet the requirements set forth in subdivision (j) of Section
36 12804.

37 (J) The persons who are exempt from the requirements of subdivision (b) of
38 Section 12801, pursuant to Section 12807, are also exempt from performing the
39 safe handling demonstration.

40 (9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser
41 or transferee of a firearm, or person being loaned a firearm, with a copy of the
42 pamphlet described in Section 12080 and may add the cost of the pamphlet, if any,
43 to the sales price of the firearm.

1 (10) The licensee shall not commit an act of collusion as defined in Section
2 12072.

3 (11) The licensee shall post conspicuously within the licensed premises a
4 detailed list of each of the following:

5 (A) All charges required by governmental agencies for processing firearm
6 transfers required by Sections 12076, 12082, and 12806.

7 (B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

8 (12) The licensee shall not misstate the amount of fees charged by a
9 governmental agency pursuant to Sections 12076, 12082, and 12806.

10 (13) Except as provided in subparagraphs (B) and (C) of paragraph (1) of
11 subdivision (b), all firearms that are in the inventory of the licensee shall be kept
12 within the licensed location. The licensee shall report the loss or theft of any
13 firearm that is merchandise of the licensee, any firearm that the licensee takes
14 possession of pursuant to Section 12082, or any firearm kept at the licensee's
15 place of business within 48 hours of discovery to the appropriate law enforcement
16 agency in the city, county, or city and county where the licensee's business
17 premises are located.

18 (14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of
19 subdivision (b), any time when the licensee is not open for business, all inventory
20 firearms shall be stored in the licensed location. All firearms shall be secured
21 using one of the following methods as to each particular firearm:

22 (A) Store the firearm in a secure facility that is a part of, or that constitutes, the
23 licensee's business premises.

24 (B) Secure the firearm with a hardened steel rod or cable of at least one-eighth
25 inch in diameter through the trigger guard of the firearm. The steel rod or cable
26 shall be secured with a hardened steel lock that has a shackle. The lock and
27 shackle shall be protected or shielded from the use of a boltcutter and the rod or
28 cable shall be anchored in a manner that prevents the removal of the firearm from
29 the premises.

30 (C) Store the firearm in a locked fireproof safe or vault in the licensee's business
31 premises.

32 (15) The licensing authority in an unincorporated area of a county or within a
33 city may impose security requirements that are more strict or are at a higher
34 standard than those specified in paragraph (14).

35 (16) Commencing January 1, 1994, the licensee shall, upon the issuance or
36 renewal of a license, submit a copy of the same to the Department of Justice.

37 (17) The licensee shall maintain and make available for inspection during
38 business hours to any peace officer, authorized local law enforcement employee,
39 or Department of Justice employee designated by the Attorney General, upon the
40 presentation of proper identification, a firearms transaction record.

41 (18)(A) On the date of receipt, the licensee shall report to the Department of
42 Justice in a format prescribed by the department the acquisition by the licensee of

1 the ownership of a pistol, revolver, or other firearm capable of being concealed
2 upon the person.

3 (B) The provisions of **this paragraph** shall not apply to any of the following
4 transactions:

5 (i) A transaction subject to the provisions of **subdivision (n) of Section 12078**.

6 (ii) The dealer acquired the firearm from a wholesaler.

7 (iii) The dealer is also licensed as a secondhand dealer pursuant to **Article 4**
8 **(commencing with Section 21625) of Chapter 9 of Division 8 of the Business and**
9 **Professions Code**.

10 (iv) The dealer acquired the firearm from a person who is licensed as a
11 manufacturer or importer to engage in those activities pursuant to **Chapter 44**
12 **(commencing with Section 921) of Title 18 of the United States Code and any**
13 **regulations issued pursuant thereto**.

14 (v) The dealer acquired the firearm from a person who resides outside this state
15 who is licensed pursuant to **Chapter 44 (commencing with Section 921) of Title 18**
16 **of the United States Code and any regulations issued pursuant thereto**.

17 (19) The licensee shall forward in a format prescribed by the Department of
18 Justice, information as required by the department on any firearm that is not
19 delivered within the time period set forth in **Section 478.102 (c) of Title 27 of the**
20 **Code of Federal Regulations**.

21 (20)(A) Firearms dealers may require any agent who handles, sells, or delivers
22 firearms to obtain and provide to the dealer a certificate of eligibility from the
23 department pursuant to **paragraph (4) of subdivision (a)**. The agent or employee
24 shall provide on the application, the name and California firearms dealer number
25 of the firearms dealer with whom he or she is employed.

26 (B) The department shall notify the firearms dealer in the event that the agent or
27 employee who has a certificate of eligibility is or becomes prohibited from
28 possessing firearms.

29 (C) If the local jurisdiction requires a background check of the agents or
30 employees of the firearms dealer, the agent or employee shall obtain a certificate
31 of eligibility pursuant to **subparagraph (A)**.

32 (D) Nothing in **this paragraph** shall be construed to preclude a local jurisdiction
33 from conducting an additional background check pursuant to **Section 11105** or
34 prohibiting employment based on criminal history that does not appear as part of
35 obtaining a certificate of eligibility, provided however, that the local jurisdiction
36 may not charge a fee for the additional criminal history check.

37 (E) The licensee shall prohibit any agent who the licensee knows or reasonably
38 should know is within a class of persons prohibited from possessing firearms
39 pursuant to **Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the**
40 **Welfare and Institutions Code**, from coming into contact with any firearm that is
41 not secured and from accessing any key, combination, code, or other means to
42 open any of the locking devices described in **clause (ii) of subparagraph (G) of this**
43 **paragraph**.

1 (F) Nothing in this paragraph shall be construed as preventing a local
2 government from enacting an ordinance imposing additional conditions on
3 licensees with regard to agents.

4 (G) For purposes of this section, the following definitions shall apply:

5 (i) An “agent” is an employee of the licensee.

6 (ii) “Secured” means a firearm that is made inoperable in one or more of the
7 following ways:

8 (I) The firearm is inoperable because it is secured by a firearms safety device
9 listed on the department’s roster of approved firearms safety devices pursuant to
10 subdivision (d) of Section 12088 of this chapter.

11 (II) The firearm is stored in a locked gun safe or long-gun safe which meets the
12 standards for department-approved gun safes set forth in Section 12088.2.

13 (III) The firearm is stored in a distinct locked room or area in the building that is
14 used to store firearms that can only be unlocked by a key, a combination, or
15 similar means.

16 (IV) The firearm is secured with a hardened steel rod or cable that is at least
17 one-eighth of an inch in diameter through the trigger guard of the firearm. The
18 steel rod or cable shall be secured with a hardened steel lock that has a shackle.
19 The lock and shackle shall be protected or shielded from the use of a boltcutter
20 and the rod or cable shall be anchored in a manner that prevents the removal of the
21 firearm from the premises.

22 (c)(1) As used in this article, “clear evidence of his or her identity and age”
23 means either of the following:

24 (A) A valid California driver’s license.

25 (B) A valid California identification card issued by the Department of Motor
26 Vehicles.

27 (2) As used in this section, a “secure facility” means a building that meets all of
28 the following specifications:

29 (A) All perimeter doorways shall meet one of the following:

30 (i) A windowless steel security door equipped with both a dead bolt and a
31 doorknob lock.

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

37 (iii) A metal grate that is padlocked and affixed to the licensee’s premises
38 independent of the door and doorframe.

39 (B) All windows are covered with steel bars.

40 (C) Heating, ventilating, air-conditioning, and service openings are secured with
41 steel bars, metal grating, or an alarm system.

42 (D) Any metal grates have spaces no larger than six inches wide measured in
43 any direction.

1 (E) Any metal screens have spaces no larger than three inches wide measured in
2 any direction.

3 (F) All steel bars shall be no further than six inches apart.

4 (3) As used in this section, **“licensed premises,” “licensed place of business,”**
5 **“licensee’s place of business,”** or **“licensee’s business premises”** means the
6 building designated in the license.

7 (4) For purposes of paragraph (17) of subdivision (b):

8 (A) A **“firearms transaction record”** is a record containing the same
9 information referred to in subdivision (a) of Section 478.124, Section 478.124a,
10 and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal
11 Regulations.

12 (B) A licensee shall be in compliance with the provisions of paragraph (17) of
13 subdivision (b) if he or she maintains and makes available for inspection during
14 business hours to any peace officer, authorized local law enforcement employee,
15 or Department of Justice employee designated by the Attorney General, upon the
16 presentation of proper identification, the bound book containing the same
17 information referred to in Section 478.124a and subdivision (e) of Section 478.125
18 of Title 27 of the Code of Federal Regulations and the records referred to in
19 subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

20 (d) Upon written request from a licensee, the licensing authority may grant an
21 exemption from compliance with the requirements of paragraph (14) of
22 subdivision (b) if the licensee is unable to comply with those requirements because
23 of local ordinances, covenants, lease conditions, or similar circumstances not
24 under the control of the licensee.

25 (e)(1) Except as otherwise provided in this paragraph, the Department of Justice
26 shall keep a centralized list of all persons licensed pursuant to subparagraphs (A)
27 to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove
28 from this list any person who knowingly or with gross negligence violates this
29 article. Upon removal of a dealer from this list, notification shall be provided to
30 local law enforcement and licensing authorities in the jurisdiction where the
31 dealer’s business is located.

32 (2) The department shall remove from the centralized list any person whose
33 federal firearms license has expired or has been revoked.

34 (3) Information compiled from the list shall be made available, upon request, for
35 the following purposes only:

36 (A) For law enforcement purposes.

37 (B) When the information is requested by a person licensed pursuant to Chapter
38 44 (commencing with Section 921) of Title 18 of the United States Code for
39 determining the validity of the license for firearm shipments.

40 (C) When information is requested by a person promoting, sponsoring,
41 operating, or otherwise organizing a show or event as defined in Section 478.100
42 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a
43 valid certificate of eligibility issued pursuant to Section 12071.1, if that

1 information is requested by the person to determine the eligibility of a prospective
2 participant in a gun show or event to conduct transactions as a firearms dealer
3 pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

4 (4) Information provided pursuant to paragraph (3) shall be limited to
5 information necessary to corroborate an individual's current license status as being
6 one of the following:

7 (A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of
8 paragraph (1) of subdivision (a).

9 (B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of
10 Title 18 of the United States Code and who is not subject to the requirement that
11 he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph
12 (1) of subdivision (a).

13 (f) The Department of Justice may inspect dealers to ensure compliance with
14 this article. The department may assess an annual fee, not to exceed one hundred
15 fifteen dollars (\$115), to cover the reasonable cost of maintaining the list
16 described in subdivision (e), including the cost of inspections. Dealers whose
17 place of business is in a jurisdiction that has adopted an inspection program to
18 ensure compliance with firearms law shall be exempt from that portion of the
19 department's fee that relates to the cost of inspections. The applicant is responsible
20 for providing evidence to the department that the jurisdiction in which the business
21 is located has the inspection program.

22 (g) The Department of Justice shall maintain and make available upon request
23 information concerning the number of inspections conducted and the amount of
24 fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as
25 defined in subdivision (f), the number of dealers removed from the centralized list
26 defined in subdivision (e), and the number of dealers found to have violated this
27 article with knowledge or gross negligence.

28 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee
29 organized as a nonprofit public benefit or mutual benefit corporation organized
30 pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with
31 Section 7110) of Division 2 of the Corporations Code, if both of the following
32 conditions are satisfied:

33 (1) The nonprofit public benefit or mutual benefit corporation obtained the
34 dealer's license solely and exclusively to assist that corporation or local chapters
35 of that corporation in conducting auctions or similar events at which firearms are
36 auctioned off to fund the activities of that corporation or the local chapters of the
37 corporation.

38 (2) The firearms are not pistols, revolvers, or other firearms capable of being
39 concealed upon the person.

40 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
41 2008 Cal. Stat. ch. 698.

1 **Penal Code § 12071.1. Gun show or event**

2 12071.1. (a) No person shall produce, promote, sponsor, operate, or otherwise
3 organize a gun show or event, as specified in subparagraph (B) of paragraph (1) of
4 subdivision (b) of Section 12071, unless that person possesses a valid certificate of
5 eligibility from the Department of Justice. Unless the department's records
6 indicate that the applicant is a person prohibited from possessing firearms, a
7 certificate of eligibility shall be issued by the Department of Justice to an applicant
8 provided the applicant does all of the following:

9 (1) Certifies that he or she is familiar with the provisions of this section and
10 Section 12071.4.

11 (2) Ensures that liability insurance is in effect for the duration of an event or
12 show in an amount of not less than one million dollars (\$1,000,000).

13 (3) Provides an annual list of the gun shows or events that the applicant plans to
14 promote, produce, sponsor, operate, or otherwise organize during the year for
15 which the certificate of eligibility is issued, including the date, time, and location
16 of the gun shows or events.

17 (b) If during that year the information required by paragraph (3) of subdivision
18 (a) changes, or additional gun shows or events will be promoted, produced,
19 sponsored, operated, or otherwise organized by the applicant, the producer shall
20 notify the Department of Justice no later than 30 days prior to the gun show or
21 event.

22 (c) As used in this section, a **“licensed gun show producer”** means a person
23 who has been issued a certificate of eligibility by the Department of Justice
24 pursuant to subdivision (a). No regulations shall be required to implement this
25 subdivision.

26 (d) The Department of Justice shall adopt regulations to administer the
27 certificate of eligibility program under this section and shall recover the full costs
28 of administering the program by fees assessed applicants who apply for
29 certificates. A licensed gun show producer shall be assessed an annual fee of
30 eighty-five dollars (\$85) by the department.

31 (e)(1) A willful failure by a gun show producer to comply with any of the
32 requirements of this section, except for the posting of required signs, shall be a
33 misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000),
34 and shall render the producer ineligible for a gun show producer license for one
35 year from the date of the conviction.

36 (2) The willful failure of a gun show producer to post signs as required by this
37 section shall be a misdemeanor punishable by a fine not to exceed one thousand
38 dollars (\$1,000) for the first offense and not to exceed two thousand dollars
39 (\$2,000) for the second or subsequent offense, and with respect to the second or
40 subsequent offense, shall render the producer ineligible for a gun show producer
41 license for one year from the date of the conviction.

1 (3) Multiple violations charged pursuant to paragraph (1) arising from more than
2 one gun show or event shall be grounds for suspension of a producer's certificate
3 of eligibility pending adjudication of the violations.

4 (f) Prior to the commencement of a gun show or event, the producer thereof
5 shall, upon written request, within 48 hours, or a later time specified by the
6 requesting law enforcement agency, make available to the requesting law
7 enforcement agency with jurisdiction over the facility, a complete and accurate list
8 of all persons, entities, and organizations that have leased or rented, or are known
9 to the producer to intend to lease or rent, any table, display space, or area at the
10 gun show or event for the purpose of selling, leasing, or transferring firearms.

11 The producer shall thereafter, upon written request, for every day the gun show
12 or event operates, within 24 hours, or a later time specified by the requesting law
13 enforcement agency, make available to the requesting law enforcement agency
14 with jurisdiction over the facility, an accurate, complete, and current list of the
15 persons, entities, and organizations that have leased or rented, or are known to the
16 producer to intend to lease or rent, any table, display space, or area at the gun
17 show or event for the purpose of selling, leasing, or transferring firearms.

18 **This subdivision** applies to persons, entities, and organizations whether or not
19 they participate in the entire gun show or event, or only a portion thereof.

20 (g) The information that may be requested by the law enforcement agency with
21 jurisdiction over the facility, and that shall be provided by the producer upon
22 request, may include, but is not limited to, the following information relative to a
23 vendor who offers for sale firearms manufactured after December 31, 1898: his or
24 her complete name, and a driver's license or identification card number.

25 (h) The producer and facility manager shall prepare an annual event and security
26 plan and schedule that shall include, at a minimum, the following:

27 (1) The type of shows or events including, but not limited to, antique or general
28 firearms.

29 (2) The estimated number of vendors offering firearms for sale or display.

30 (3) The estimated number of attendees.

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

32 (5) The location, dates, and times of the shows or events.

33 (6) The contact person and telephone number for both the producer and the
34 facility.

35 (7) The number of sworn peace officers employed by the producer or the
36 facilities manager who will be present at the show or event.

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

39 (i) The annual event and security plan shall be submitted by either the producer
40 or the facility's manager to the Department of Justice and the law enforcement
41 agency with jurisdiction over the facility. Not later than 15 days prior to the
42 commencement of the gun show or event, the producer shall submit to the
43 department, the law enforcement agency with jurisdiction over the facility site,

1 and the facility's manager a revised event and security plan if significant changes
2 have been made since the annual plan was submitted, including a revised list of
3 vendors that the producer knows, or reasonably should know, will be renting
4 tables, space, or otherwise participating in the gun show or event. The event and
5 security plan shall be approved by the facility's manager prior to the event or show
6 after consultation with the law enforcement agency with jurisdiction over the
7 facility. No gun show or event shall commence unless the requirements of **this**
8 **subdivision** are met.

9 (j) The producer shall be responsible for informing prospective gun show
10 vendors of the requirements of **this section** and of **Section 12071.4** that apply to
11 vendors.

12 (k) The producer shall, within seven calendar days of the commencement of the
13 show or event, but not later than noon on Friday for a show or event held on a
14 weekend, submit a list of all prospective vendors and designated firearms transfer
15 agents who are licensed firearms dealers to the Department of Justice for the
16 purpose of determining whether these prospective vendors and designated firearms
17 transfer agents possess valid licenses and are thus eligible to participate as licensed
18 dealers at the show or event. The department shall examine its records and if it
19 determines that a dealer's license is not valid, it shall notify the show or event
20 producer of that fact prior to the commencement of the show or event.

21 (l) If a licensed firearms dealer fails to cooperate with a producer or fails to
22 comply with the applicable requirements of **this section** or **Section 12071.4**, that
23 person shall not be allowed to participate in that show or event.

24 (m) If a producer fails to comply with **subdivision (j) or (k)**, the gun show or
25 event shall not commence until those requirements are met.

26 (n) All producers shall have written contracts with all gun show vendors selling
27 firearms at the show or event.

28 (o) The producer shall require that signs be posted in a readily visible location at
29 each public entrance to the show containing, but not limited to, the following
30 notices:

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

33 (2) All firearms carried onto the premises by members of the public will be
34 checked, cleared of any ammunition, secured in a manner that prevents them from
35 being operated, and an identification tag or sticker will be attached to the firearm
36 prior to the person being allowed admittance to the show.

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

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

41 (5) Persons possessing firearms on this facility must have in their immediate
42 possession government-issued photo identification, and display it upon request to
43 any security officer or any peace officer, as defined in **Section 830**.

1 (p) The show producer shall post, in a readily visible location at each entrance to
2 the parking lot at the show, signage that states: “The transfer of firearms on the
3 parking lot of this facility is a crime.”

4 (q) It is the intent of the Legislature that the certificate of eligibility program
5 established pursuant to **this section** be incorporated into the certificate of eligibility
6 program established pursuant to **Section 12071** to the maximum extent practicable.

7 **Penal Code § 12071.4. Gun Show Enforcement and Security Act of 2000**

8 12071.4. (a) **This section** shall be known, and may be cited as, the Gun Show
9 Enforcement and Security Act of 2000.

10 (b) All gun show or event vendors shall certify in writing to the producer that
11 they:

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

14 (2) Acknowledge that they are responsible for knowing and complying with all
15 applicable federal, state, and local laws dealing with the possession and transfer of
16 firearms.

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

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

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

24 (6) Have complied with the requirements of **subdivision (e)**.

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

26 (c) All firearms transfers at the gun show or event shall be in accordance with
27 applicable state and federal laws.

28 (d) Except for purposes of showing ammunition to a prospective buyer,
29 ammunition at a gun show or event may be displayed only in closed original
30 factory boxes or other closed containers.

31 (e) Prior to the commencement of a gun show or event, each vendor shall
32 provide to the producer all of the following information relative to the vendor, the
33 vendor’s employees, and other persons, compensated or not, who will be working
34 or otherwise providing services to the public at the vendor’s display space if
35 firearms manufactured after December 31, 1898, will be offered for sale:

36 (1) His or her complete name.

37 (2) His or her driver’s license or state-issued identification card number.

38 (3) His or her date of birth.

39 The producer shall keep the information at the show’s or event’s onsite
40 headquarters for the duration of the show or event, and at the producer’s regular
41 place of business for two weeks after the conclusion of the show or event, and

1 shall make the information available upon request to any sworn peace officer for
2 purposes of the officer's official law enforcement duties.

3 (f) Vendors and employees of vendors shall wear name tags indicating first and
4 last name.

5 (g) No person at a gun show or event, other than security personnel or sworn
6 peace officers, shall possess at the same time both a firearm and ammunition that
7 is designed to be fired in the firearm. Vendors having those items at the show for
8 sale or exhibition are exempt from this prohibition.

9 (h) No member of the public who is under the age of 18 years shall be admitted
10 to, or be permitted to remain at, a gun show or event unless accompanied by a
11 parent or legal guardian. Any member of the public who is under the age of 18
12 shall be accompanied by his or her parent, grandparent, or legal guardian while at
13 the show or event.

14 (i) Persons other than show or event security personnel, sworn peace officers, or
15 vendors, who bring firearms onto the gun show or event premises shall sign in ink
16 the tag or sticker that is attached to the firearm prior to being allowed admittance
17 to the show or event, as provided for in subdivision (j).

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

27 (1) The gun owner's signature.

28 (2) The gun owner's printed name.

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

31 (k) All persons possessing firearms at the gun show or event shall have in his or
32 her immediate possession, government-issued photo identification, and display it
33 upon request, to any security officer, or any peace officer.

34 (l) Unless otherwise specified, a first violation of this section is an infraction.
35 Any second or subsequent violation is a misdemeanor. Any person who commits
36 an act which he or she knows to be a violation of this section is guilty of a
37 misdemeanor for a first offense.

38 **Penal Code § 12072. Prohibited and required acts relating to firearms**

39 12072. (a)(1) No person, corporation, or firm shall knowingly supply, deliver,
40 sell, or give possession or control of a firearm to any person within any of the
41 classes prohibited by Section 12021 or 12021.1.

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

5 (3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a
6 minor, nor sell a handgun to an individual under 21 years of age.

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

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

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

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

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

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

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

23 (i) The provisions of subdivision (d).

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

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

27 (7) The dealer shall comply with the provisions of paragraph (19) of subdivision
28 (b) of Section 12071.

29 (8) No person shall sell or otherwise transfer his or her ownership in a pistol,
30 revolver, or other firearm capable of being concealed upon the person unless the
31 firearm bears either:

32 (A) The name of the manufacturer, the manufacturer's make or model, and a
33 manufacturer's serial number assigned to that firearm.

34 (B) The identification number or mark assigned to the firearm by the
35 Department of Justice pursuant to Section 12092.

36 (9)(A) No person shall make an application to purchase more than one pistol,
37 revolver, or other firearm capable of being concealed upon the person within any
38 30-day period.

39 (B) Subparagraph (A) shall not apply to any of the following:

40 (i) Any law enforcement agency.

41 (ii) Any agency duly authorized to perform law enforcement duties.

42 (iii) Any state or local correctional facility.

43 (iv) Any private security company licensed to do business in California.

1 (v) Any person who is properly identified as a full-time paid peace officer, as
2 defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and
3 who is authorized to, and does carry a firearm during the course and scope of his
4 or her employment as a peace officer.

5 (vi) Any motion picture, television, or video production company or
6 entertainment or theatrical company whose production by its nature involves the
7 use of a firearm.

8 (vii) Any person who may, pursuant to Section 12078, claim an exemption from
9 the waiting period set forth in subdivision (c) of this section.

10 (viii) Any transaction conducted through a licensed firearms dealer pursuant to
11 Section 12082.

12 (ix) Any person who is licensed as a collector pursuant to Chapter 44
13 (commencing with Section 921) of Title 18 of the United States Code and the
14 regulations issued pursuant thereto and who has a current certificate of eligibility
15 issued to him or her by the Department of Justice pursuant to Section 12071.

16 (x) The exchange of a pistol, revolver, or other firearm capable of being
17 concealed upon the person where the dealer purchased that firearm from the
18 person seeking the exchange within the 30-day period immediately preceding the
19 date of exchange or replacement.

20 (xi) The replacement of a pistol, revolver, or other firearm capable of being
21 concealed upon the person when the person's pistol, revolver, or other firearm
22 capable of being concealed upon the person was lost or stolen, and the person
23 reported that firearm lost or stolen prior to the completion of the application to
24 purchase to any local law enforcement agency of the city, county, or city and
25 county in which he or she resides.

26 (xii) The return of any pistol, revolver, or other firearm capable of being
27 concealed upon the person to its owner.

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

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

34 (1) Within 10 days of the application to purchase, or, after notice by the
35 department pursuant to subdivision (d) of Section 12076, within 10 days of the
36 submission to the department of any correction to the application, or within 10
37 days of the submission to the department of any fee required pursuant to
38 subdivision (e) of Section 12076, whichever is later.

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

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

1 (4) Whenever the dealer is notified by the Department of Justice that the person
2 is prohibited by state or federal law from possessing, receiving, owning, or
3 purchasing a firearm.

4 (5)(A) Commencing April 1, 1994, and until January 1, 2003, no pistol,
5 revolver, or other firearm capable of being concealed upon the person shall be
6 delivered unless the purchaser, transferee, or person being loaned the firearm
7 presents to the dealer a basic firearms safety certificate.

8 (B) Commencing January 1, 2003, no handgun shall be delivered unless the
9 purchaser, transferee, or person being loaned the handgun presents a handgun
10 safety certificate to the dealer.

11 (6) No pistol, revolver, or other firearm capable of being concealed upon the
12 person shall be delivered whenever the dealer is notified by the Department of
13 Justice that within the preceding 30-day period the purchaser has made another
14 application to purchase a pistol, revolver, or other firearm capable of being
15 concealed upon the person and that the previous application to purchase involved
16 none of the entities specified in subparagraph (B) of paragraph (9) of subdivision
17 (a).

18 (d) Where neither party to the transaction holds a dealer's license issued
19 pursuant to Section 12071, the parties to the transaction shall complete the sale,
20 loan, or transfer of that firearm through a licensed firearms dealer pursuant to
21 Section 12082.

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

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

27 (2) Knowingly grading the examination falsely.

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

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

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

34 (6) Using or allowing another to use one's identification, proof of residency, or
35 thumbprint.

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

37 (8) Reference to unauthorized materials during the examination and cheating by
38 the applicant.

39 (9) Providing originals or photocopies of the objective test, or any version
40 thereof, to any person other than as authorized by the department.

41 (f)(1)(A) Commencing July 1, 2008, a person who is licensed pursuant to
42 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
43 may not deliver, sell, or transfer a firearm to a person in California who is licensed

1 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
2 States Code unless, prior to delivery, the person intending to deliver, sell, or
3 transfer the firearm obtains a verification number via the Internet for the intended
4 delivery, sale, or transfer, from the department. If Internet service is unavailable to
5 either the department or the licensee due to a technical or other malfunction, or a
6 federal firearms licensee who is located outside of California does not possess a
7 computer or have Internet access, alternate means of communication, including
8 facsimile or telephone, shall be made available for a licensee to obtain a
9 verification number in order to comply with this section. This subdivision shall not
10 apply to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled
11 shotgun, as defined in Section 12020, or to a machinegun as defined in Section
12 12200, or to an assault weapon as defined in Sections 12276, 12276.1, and
13 12276.5.

14 (B) For every identification number request received pursuant to this section, the
15 department shall determine whether the intended recipient is on the centralized list
16 of firearms dealers pursuant to this section, or the centralized list of exempted
17 federal firearms licensees pursuant to subdivision (a) of Section 12083, or the
18 centralized list of firearms manufacturers pursuant to subdivision (f) of Section
19 12086.

20 (C) If the department finds that the intended recipient is on one of these lists, the
21 department shall issue to the inquiring party, a unique identification number for
22 the intended delivery, sale, or transfer. In addition to the unique verification
23 number, the department may provide to the inquiring party information necessary
24 for determining the eligibility of the intended recipient to receive the firearm. The
25 person intending to deliver, sell, or transfer the firearm shall provide the unique
26 verification number to the recipient along with the firearm upon delivery, in a
27 manner to be determined by the department.

28 (D) If the department finds that the intended recipient is not on one of these lists,
29 the department shall notify the inquiring party that the intended recipient is
30 ineligible to receive the firearm.

31 (E) The department shall prescribe the manner in which the verification numbers
32 may be requested via the Internet, or by alternate means of communication, such
33 as by facsimile or telephone, including all required enrollment information and
34 procedures.

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

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

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

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

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

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

8 (C) The provisions of this paragraph are cumulative and shall not be construed
9 as restricting the application of any other law.

10 However, an act or omission punishable in different ways by this section and
11 different provisions of the Penal Code shall not be punished under more than one
12 provision.

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

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

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

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

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

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

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

41 (3) Where a person who is licensed as a collector pursuant to Chapter 44
42 (commencing with Section 921) of Title 18 of the United States Code and the
43 regulations issued pursuant thereto, whose licensed premises are within this state,

1 acquires a pistol, revolver, or other firearm capable of being concealed upon the
2 person that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code
3 of Federal Regulations, outside of this state, takes actual possession of that firearm
4 outside of this state pursuant to the provisions of subsection (j) of Section 923 of
5 Title 18 of the United States Code, as amended by Public Law 104-208, and
6 transports that firearm into this state, within five days of that licensed collector
7 transporting that firearm into this state, he or she shall report to the department in a
8 format prescribed by the department his or her acquisition of that firearm.

9 (4)(A) It is the intent of the Legislature that a violation of paragraph (2) or (3)
10 shall not constitute a “**continuing offense**” and the statute of limitations for
11 commencing a prosecution for a violation of paragraph (2) or (3) commences on
12 the date that the applicable grace period specified in paragraph (2) or (3) expires.

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

18 (g)(1) Except as provided in paragraph (2), (3), or (5), a violation of this section
19 is a misdemeanor.

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

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

23 (B) If the defendant has a prior conviction of violating the provisions, other than
24 paragraph (9) of subdivision (a), of this section or former Section 12100 of this
25 code or Section 8101 of the Welfare and Institutions Code.

26 (C) If the defendant has a prior conviction of violating any offense specified in
27 subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or
28 12520, or of former Section 12560.

29 (D) If the defendant is in a prohibited class described in Section 12021 or
30 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

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

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

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

39 (A) A violation of paragraph (2), (4), or (5) of subdivision (a).

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

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

3 (D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving
4 a pistol, revolver, or other firearm capable of being concealed upon the person.

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

7 (F) A violation of subdivision (e).

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

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

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

15 (5)(A) A first violation of paragraph (9) of subdivision (a) is an infraction
16 punishable by a fine of fifty dollars (\$50).

17 (B) A second violation of paragraph (9) of subdivision (a) is an infraction
18 punishable by a fine of one hundred dollars (\$100).

19 (C) A third or subsequent violation of paragraph (9) of subdivision (a) is a
20 misdemeanor.

21 (D) For purposes of this paragraph each application to purchase a pistol,
22 revolver, or other firearm capable of being concealed upon the person in violation
23 of paragraph (9) of subdivision (a) shall be deemed a separate offense.

24 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
25 2008 Cal. Stat. ch. 698.

26 **Penal Code § 12072.5. Ballistics identification system**

27 12072.5. (a) For purposes of this section, “**ballistics identification systems**”
28 includes, but is not limited to, any automated image analysis system that is capable
29 of storing firearm ballistic markings and tracing those markings to the firearm that
30 produced them.

31 (b) The Attorney General shall conduct a study to evaluate ballistics
32 identification systems to determine the feasibility and potential benefits to law
33 enforcement of utilizing a statewide ballistics identification system capable of
34 maintaining a data base of ballistic images and information from test fired and
35 sold firearms. The study shall include an evaluation of ballistics identification
36 systems currently used by state and federal law enforcement agencies and the
37 firearms industry. The Attorney General shall consult with law enforcement
38 agencies, firearms industry representatives, private technology providers, and
39 other appropriate parties in conducting the study.

40 (c) In evaluating ballistics identification systems to determine the feasibility of
41 utilizing a statewide system as required pursuant to subdivision (b), the Attorney
42 General shall consider, at a minimum, the following:

1 (1) The development of methods by which firearm manufacturers, importers,
2 and dealers may potentially capture ballistic images from firearms prior to sale in
3 California and forward that information to the Attorney General.

4 (2) The development of methods by which the Attorney General will receive,
5 store, and make available to law enforcement ballistic images submitted by
6 firearm manufacturers, importers, and dealers prior to sale in California.

7 (3) The potential financial costs to the Attorney General of implementing and
8 operating a statewide ballistics identification system, including the process for
9 receipt of information from firearm manufacturers, importers, and dealers.

10 (4) The capability of a ballistics identification system maintaining a data base of
11 ballistic images and information from test fired firearms for all firearms sold in
12 California.

13 (5) The compatibility of a ballistics identification system with ballistics
14 identification systems that are currently used by law enforcement agencies in
15 California.

16 (6) A method to ensure that state and local law enforcement agencies can
17 forward ballistic identification information to the Attorney General for inclusion in
18 a statewide ballistics identification system.

19 (7) The feasibility and potential benefits to law enforcement of requiring firearm
20 manufacturers, importers, and dealers to provide the Attorney General with
21 ballistic images from any, or a selected number of, test fired firearms prior to the
22 sale of those firearms in California.

23 (d) The Attorney General shall submit a report to the Legislature with the results
24 of the study not later than June 1, 2001. In the event the report includes a
25 determination that a ballistics identification system and data base is feasible and
26 would benefit law enforcement, the report shall also recommend a strategy for
27 implementation.

28 **Penal Code § 12073. Register or record of electronic or telephonic transfer**

29 12073. (a) As required by the Department of Justice, every dealer shall keep a
30 register or record of electronic or telephonic transfer in which shall be entered the
31 information prescribed in Section 12077.

32 (b) This section shall not apply to any of the following transactions:

33 (1) The delivery, sale, or transfer of an unloaded firearm that is not a handgun
34 by a dealer to another dealer upon proof of compliance with the requirements of
35 paragraph (1) of subdivision (f) of Section 12072.

36 (2) The delivery, sale, or transfer of an unloaded firearm by a dealer to another
37 dealer if that firearm is intended as merchandise in the receiving dealer's business
38 upon proof of compliance with the requirements of paragraph (1) of subdivision
39 (f) of Section 12072.

40 (3) The delivery, sale, or transfer of an unloaded firearm by a dealer to a person
41 licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with

1 Section 921) of Title 18 of the United States Code and any regulations issued
2 pursuant thereto.

3 (4) The delivery, sale, or transfer of an unloaded firearm by a dealer who sells,
4 transfers, or delivers the firearm to a person who resides outside this state who is
5 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
6 United States Code and any regulations issued pursuant thereto.

7 (5) The delivery, sale, or transfer of an unloaded firearm by a dealer to a
8 wholesaler if that firearm is being returned to the wholesaler and is intended as
9 merchandise in the wholesaler's business.

10 (6) The delivery, sale, or transfer of an unloaded firearm that is not a handgun
11 by a dealer to himself or herself.

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

20 (8) The delivery of an unloaded firearm by a dealer to a gunsmith for service or
21 repair.

22 (9) The return of an unloaded firearm to the owner of that firearm by a dealer, if
23 the owner initially delivered the firearm to the dealer for service or repair.

24 (10) The loan of an unloaded firearm by a dealer to a person who possesses a
25 valid entertainment firearms permit issued pursuant to Section 12081, for use
26 solely as a prop in a motion picture, television, video, theatrical, or other
27 entertainment production or event.

28 (11) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the
29 loan does not exceed 45 days from the date of delivery of the firearm by the dealer
30 to the consultant-evaluator.

31 (c) A violation of this section is a misdemeanor.

32 **Penal Code § 12074. Requirements for preparation of register or record**

33 12074. (a) The register shall be prepared by and obtained from the State Printer
34 and shall be furnished by the State Printer only to dealers on application at a cost
35 to be determined by the Department of General Services for each 100 leaves in
36 quadruplicate, one original and three duplicates for the making of carbon copies.
37 The original and duplicate copies shall differ in color, and shall be in the form
38 provided by this article.

39 (b) Where the electronic transfer of applicant information is used, the
40 Department of Justice shall develop the standards for all appropriate electronic
41 equipment and telephone numbers to effect the transfer of information to the
42 department.

1 **Penal Code § 12075. Duties relating to register**

2 12075. The State Printer upon issuing a register shall forward to the Department
3 of Justice the name and business address of the dealer together with the series and
4 sheet numbers of the register. The register shall not be transferable. If the dealer
5 moves his business to a different location he shall notify the department of such
6 fact in writing within 48 hours.

7 **Penal Code § 12076. Submission of firearm purchaser information to Department of Justice**

8 12076. (a)(1) Before January 1, 1998, the Department of Justice shall determine
9 the method by which a dealer shall submit firearm purchaser information to the
10 department and the information shall be in one of the following formats:

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

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

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

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

21 (b)(1) Where the register is used, the purchaser of any firearm shall be required
22 to present clear evidence of his or her identity and age, as defined in Section
23 12071, to the dealer, and the dealer shall require him or her to sign his or her
24 current legal name and affix his or her residence address and date of birth to the
25 register in quadruplicate. The salesperson shall affix his or her signature to the
26 register in quadruplicate as a witness to the signature and identification of the
27 purchaser. Any person furnishing a fictitious name or address or knowingly
28 furnishing any incorrect information or knowingly omitting any information
29 required to be provided for the register and any person violating any provision of
30 this section is guilty of a misdemeanor, provided however, that any person who is
31 prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this
32 code, or Section 8100 or 8103 of the Welfare and Institutions Code who
33 knowingly furnishes a fictitious name or address or knowingly furnishes any
34 incorrect information or knowingly omits any information required to be provided
35 for the register shall be punished by imprisonment in a county jail not exceeding
36 one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

37 (2) The original of the register shall be retained by the dealer in consecutive
38 order. Each book of 50 originals shall become the permanent register of
39 transactions that shall be retained for not less than three years from the date of the
40 last transaction and shall be available for the inspection of any peace officer,
41 Department of Justice employee designated by the Attorney General, or agent of
42 the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the

1 presentation of proper identification, but no information shall be compiled
2 therefrom regarding the purchasers or other transferees of firearms that are not
3 pistols, revolvers, or other firearms capable of being concealed upon the person.

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

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

9 (5) If the transaction is a private party transfer conducted pursuant to **Section**
10 **12082**, a photocopy of the original shall be provided to the seller or purchaser by
11 the dealer, upon request. The dealer shall redact all of the purchaser's personal
12 information, as required pursuant to **paragraph (1) of subdivision (b) and**
13 **paragraph (1) of subdivision (c) of Section 12077**, from the seller's copy, and the
14 seller's personal information from the purchaser's copy.

15 (c)(1) Where the electronic or telephonic transfer of applicant information is
16 used, the purchaser shall be required to present clear evidence of his or her identity
17 and age, as defined in **Section 12071**, to the dealer, and the dealer shall require
18 him or her to sign his or her current legal name to the record of electronic or
19 telephonic transfer. The salesperson shall affix his or her signature to the record of
20 electronic or telephonic transfer as a witness to the signature and identification of
21 the purchaser. Any person furnishing a fictitious name or address or knowingly
22 furnishing any incorrect information or knowingly omitting any information
23 required to be provided for the electronic or telephonic transfer and any person
24 violating any provision of **this section** is guilty of a misdemeanor, provided
25 however, that any person who is prohibited from obtaining a firearm pursuant to
26 **Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and**
27 **Institutions Code** who knowingly furnishes a fictitious name or address or
28 knowingly furnishes any incorrect information or knowingly omits any
29 information required to be provided for the register shall be punished by
30 imprisonment in a county jail not exceeding one year or imprisonment in the state
31 prison for a term of 8, 12, or 18 months.

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

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

1 that are not pistols, revolvers, or other firearms capable of being concealed upon
2 the person.

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

5 (5) If the transaction is a private party transfer conducted pursuant to Section
6 12082, a copy shall be provided to the seller or purchaser by the dealer, upon
7 request. The dealer shall redact all of the purchaser's personal information, as
8 required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of
9 subdivision (c) of Section 12077, from the seller's copy, and the seller's personal
10 information from the purchaser's copy.

11 (d)(1) The department shall examine its records, as well as those records that it
12 is authorized to request from the State Department of Mental Health pursuant to
13 Section 8104 of the Welfare and Institutions Code, in order to determine if the
14 purchaser is a person described in subparagraph (A) of paragraph (9) of
15 subdivision (a) of Section 12072, or is prohibited by state or federal law from
16 possessing, receiving, owning, or purchasing a firearm.

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

25 (3) If the department determines that the purchaser is prohibited by state or
26 federal law from possessing, receiving, owning, or purchasing a firearm or is a
27 person described in subparagraph (A) of paragraph (9) of subdivision (a) of
28 Section 12072, it shall immediately notify the dealer and the chief of the police
29 department of the city or city and county in which the sale was made, or if the sale
30 was made in a district in which there is no municipal police department, the sheriff
31 of the county in which the sale was made, of that fact.

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

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

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

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

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

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

24 (3) The State Department of Mental Health for the costs resulting from the
25 requirements imposed by Section 8104 of the Welfare and Institutions Code.

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

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

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

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

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

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

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

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

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

29 (A) For the actual costs associated with the preparation, sale, processing, and
30 filing of forms or reports required or utilized pursuant to Section 12078.

31 (B) For the actual processing costs associated with the submission of a Dealers'
32 Record of Sale to the department.

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

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

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

1 (3) Any costs incurred by the Department of Justice to implement this
2 subdivision shall be reimbursed from fees collected and charged pursuant to this
3 subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) for
4 implementing this subdivision.

5 (g) All money received by the department pursuant to this section shall be
6 deposited in the Dealers' Record of Sale Special Account of the General Fund,
7 which is hereby created, to be available, upon appropriation by the Legislature, for
8 expenditure by the department to offset the costs incurred pursuant to this section,
9 paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section
10 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections
11 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

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

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

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

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

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

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

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

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

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

37 (4) **"Seller"** means, if the transaction is being conducted pursuant to Section
38 12082, the person selling, loaning, or transferring the firearm.

39 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
40 2008 Cal. Stat. ch. 698. It does not reflect an amendment made by SB 1241 (Margett), because
41 that amendment was subordinated to the amendment made by AB 837 (Feuer). See 2008 Cal.
42 Stat. ch. 699, §§ 19, 33.

1 **Penal Code § 12076.5. Firearms Safety and Enforcement Special Fund**

2 12076.5. (a) The Firearms Safety and Enforcement Special Fund is hereby
3 established in the State Treasury and shall be administered by the Department of
4 Justice. Notwithstanding Section 13340 of the Government Code, all moneys in
5 the fund are continuously appropriated to the Department of Justice without regard
6 to fiscal years for the purpose of implementing and enforcing the provisions of
7 Article 8 (commencing with Section 12800), as added by the Statutes of 2001,
8 enforcing the provisions of this title, and for the establishment, maintenance and
9 upgrading of equipment and services necessary for firearms dealers to comply
10 with Section 12077.

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

15 **Penal Code § 12077. Form of register and record of electronic transfer**

16 12077. (a) The Department of Justice shall prescribe the form of the register and
17 the record of electronic transfer pursuant to Section 12074.

18 (b)(1) For handguns, information contained in the register or record of electronic
19 transfer shall be the date and time of sale, make of firearm, peace officer
20 exemption status pursuant to subdivision (a) of Section 12078 and the agency
21 name, dealer waiting period exemption pursuant to subdivision (n) of Section
22 12078, dangerous weapons permitholder waiting period exemption pursuant to
23 subdivision (r) of Section 12078, curio and relic waiting period exemption
24 pursuant to subdivision (t) of Section 12078, California Firearms Dealer number
25 issued pursuant to Section 12071, for transactions occurring prior to January 1,
26 2003, the purchaser's basic firearms safety certificate number issued pursuant to
27 Sections 12805 and 12809, for transactions occurring on or after January 1, 2003,
28 the purchaser's handgun safety certificate number issued pursuant to Article 8
29 (commencing with Section 12800), manufacturer's name if stamped on the
30 firearm, model name or number, if stamped on the firearm, if applicable, serial
31 number, other number (if more than one serial number is stamped on the firearm),
32 any identification number or mark assigned to the firearm pursuant to Section
33 12092, caliber, type of firearm, if the firearm is new or used, barrel length, color of
34 the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's
35 local address, if current address is temporary, complete permanent address of
36 purchaser, identification of purchaser, purchaser's place of birth (state or country),
37 purchaser's complete telephone number, purchaser's occupation, purchaser's sex,
38 purchaser's physical description, all legal names and aliases ever used by the
39 purchaser, yes or no answer to questions that prohibit purchase including, but not
40 limited to, conviction of a felony as described in Section 12021 or an offense
41 described in Section 12021.1, the purchaser's status as a person described in
42 Section 8100 of the Welfare and Institutions Code, whether the purchaser is a

1 person who has been adjudicated by a court to be a danger to others or found not
2 guilty by reason of insanity, whether the purchaser is a person who has been found
3 incompetent to stand trial or placed under conservatorship by a court pursuant to
4 Section 8103 of the Welfare and Institutions Code, signature of purchaser,
5 signature of salesperson (as a witness to the purchaser's signature), salesperson's
6 certificate of eligibility number if he or she has obtained a certificate of eligibility,
7 name and complete address of the dealer or firm selling the firearm as shown on
8 the dealer's license, the establishment number, if assigned, the dealer's complete
9 business telephone number, any information required by Section 12082, any
10 information required to determine whether or not paragraph (6) of subdivision (c)
11 of Section 12072 applies, and a statement of the penalties for any person signing a
12 fictitious name or address or for knowingly furnishing any incorrect information
13 or for knowingly omitting any information required to be provided for the register.

14 (2) Effective January 1, 2003, the purchaser shall provide his or her right
15 thumbprint on the register in a manner prescribed by the department. No exception
16 to this requirement shall be permitted except by regulations adopted by the
17 department.

18 (3) The firearms dealer shall record on the register or record of electronic
19 transfer the date that the handgun is delivered.

20 (c)(1) For firearms other than handguns, information contained in the register or
21 record of electronic transfer shall be the date and time of sale, peace officer
22 exemption status pursuant to subdivision (a) of Section 12078 and the agency
23 name, auction or event waiting period exemption pursuant to subdivision (g) of
24 Section 12078, California Firearms Dealer number issued pursuant to Section
25 12071, dangerous weapons permit holder waiting period exemption pursuant to
26 subdivision (r) of Section 12078, curio and relic waiting period exemption
27 pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of
28 purchaser, purchaser's complete date of birth, purchaser's local address, if current
29 address is temporary, complete permanent address of purchaser, identification of
30 purchaser, purchaser's place of birth (state or country), purchaser's complete
31 telephone number, purchaser's occupation, purchaser's sex, purchaser's physical
32 description, all legal names and aliases ever used by the purchaser, yes or no
33 answer to questions that prohibit purchase, including, but not limited to,
34 conviction of a felony as described in Section 12021 or an offense described in
35 Section 12021.1, the purchaser's status as a person described in Section 8100
36 of the Welfare and Institutions Code, whether the purchaser is a person who has been
37 adjudicated by a court to be a danger to others or found not guilty by reason of
38 insanity, whether the purchaser is a person who has been found incompetent to
39 stand trial or placed under conservatorship by a court pursuant to Section 8103
40 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson
41 (as a witness to the purchaser's signature), salesperson's certificate of eligibility
42 number if he or she has obtained a certificate of eligibility, name and complete
43 address of the dealer or firm selling the firearm as shown on the dealer's license,

1 the establishment number, if assigned, the dealer's complete business telephone
2 number, any information required by Section 12082, and a statement of the
3 penalties for any person signing a fictitious name or address or for knowingly
4 furnishing any incorrect information or for knowingly omitting any information
5 required to be provided for the register.

6 (2) Effective January 1, 2003, the purchaser shall provide his or her right
7 thumbprint on the register in a manner prescribed by the department. No exception
8 to this requirement shall be permitted except by regulations adopted by the
9 department.

10 (3) The firearms dealer shall record on the register or record of electronic
11 transfer the date that the firearm is delivered.

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

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

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

17 (3) Each dealer shall be provided instructions regarding the procedure for
18 completion of the form and routing of the form.

19 Dealers shall comply with these instructions which shall include the information
20 set forth in this subdivision.

21 (4) One firearm transaction shall be reported on each record of sale document.
22 For purposes of this subdivision, a **"transaction"** means a single sale, loan, or
23 transfer of any number of firearms that are not handguns.

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

27 (f) Effective January 1, 2003, the purchaser's name, date of birth, and driver's
28 license or identification number shall be obtained electronically from the magnetic
29 strip on the purchaser's driver's license or identification and shall not be supplied
30 by any other means except as authorized by the department. This requirement shall
31 not apply in either of the following cases:

32 (1) The purchaser's identification consists of a military identification card.

33 (2) Due to technical limitations, the magnetic stripe reader is unable to obtain
34 the required information from the purchaser's identification. In those
35 circumstances, the firearms dealer shall obtain a photocopy of the identification as
36 proof of compliance.

37 (3) In the event that the dealer has reported to the department that the dealer's
38 equipment has failed, information pursuant to this subdivision shall be obtained by
39 an alternative method to be determined by the department.

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

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

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

1 (3) “Sale” means the sale, loan, or transfer of a firearm.

2 **Penal Code § 12077.5. Firearms eligibility check**

3 12077.5. (a) An individual may request that the Department of Justice perform a
4 firearms eligibility check for that individual. The applicant requesting the
5 eligibility check shall provide the information required by subdivision (c) of
6 Section 12077 to the department, in an application specified by the department.

7 (b) The department shall charge a fee of twenty dollars (\$20) for performing the
8 eligibility check authorized by this section, but not to exceed the actual processing
9 costs of the department. After the department establishes fees sufficient to
10 reimburse the department for processing costs, fees charged may increase at a rate
11 not to exceed the legislatively approved cost-of-living adjustment for the
12 department’s budget or as otherwise increased through the Budget Act.

13 (c) An applicant for the eligibility check pursuant to subdivision (a) shall
14 complete the application, have it notarized by any licensed California Notary
15 Public, and submit it by mail to the department. Upon receipt of a notarized
16 application and fee, the department shall do all of the following:

17 (1) Examine its records, and the records it is authorized to request from the State
18 Department of Mental Health pursuant to Section 8104 of the Welfare and
19 Institutions Code, to determine if the purchaser is prohibited by state or federal
20 law from possessing, receiving, owning, or purchasing a firearm.

21 (2) Notify the applicant by mail of its determination of whether the applicant is
22 prohibited by state or federal law from possessing, receiving, owning, or
23 purchasing a firearm. The department’s notification shall state either “eligible to
24 possess firearms as of the date the check was completed” or “ineligible to possess
25 firearms as of the date the check was completed.”

26 (d) If the department determines that the information submitted to it in the
27 application contains any blank spaces, or inaccurate, illegible, or incomplete
28 information, preventing identification of the applicant, or if the required fee is not
29 submitted, the department shall not be required to perform the firearms eligibility
30 check.

31 (e) The department shall make applications to conduct a firearms eligibility
32 check as described in this section available to licensed firearms dealers and on the
33 department’s Web site.

34 (f) The department shall be immune from any liability arising out of the
35 performance of the firearms eligibility check, or any reliance upon the firearms
36 eligibility check.

37 (g) No person or agency may require or request another person to obtain a
38 firearms eligibility check or notification of a firearms eligibility check pursuant to
39 this section. A violation of this subdivision is a misdemeanor.

40 (h) The department shall include on the application specified in subdivision (a)
41 and the notification of eligibility specified in subdivision (c) the following
42 statements:

1 “No person or agency may require or request another person to obtain a firearms
2 eligibility check or notification of firearms eligibility check pursuant to Section
3 12077.5 of the Penal Code. A violation of these provisions is a misdemeanor.”

4 “If the applicant for a firearms eligibility check purchases, transfers, or receives
5 a firearm through a licensed dealer as required by law, a waiting period and
6 background check are both required.”

7 **☞ Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
8 2008 Cal. Stat. ch. 698.

9 **Penal Code § 12078. Exceptions to firearm sale or transfer laws**

10 12078. (a)(1) The waiting periods described in Sections 12071 and 12072 shall
11 not apply to the deliveries, transfers, or sales of firearms made to persons properly
12 identified as full-time paid peace officers as defined in Chapter 4.5 (commencing
13 with Section 830) of Title 3 of Part 2, provided that the peace officers are
14 authorized by their employer to carry firearms while in the performance of their
15 duties.

16 Proper identification is defined as verifiable written certification from the head
17 of the agency by which the purchaser or transferee is employed, identifying the
18 purchaser or transferee as a peace officer who is authorized to carry firearms while
19 in the performance of his or her duties, and authorizing the purchase or transfer.
20 The certification shall be delivered to the dealer at the time of purchase or transfer
21 and the purchaser or transferee shall identify himself or herself as the person
22 authorized in the certification. The dealer shall keep the certification with the
23 record of sale. On the date that the delivery, sale, or transfer is made, the dealer
24 delivering the firearm shall transmit to the Department of Justice an electronic or
25 telephonic report of the transaction as is indicated in subdivision (b) or (c) of
26 Section 12077.

27 (2) Subdivision (b) of Section 12801 and the preceding provisions of this article
28 do not apply to deliveries, transfers, or sales of firearms made to authorized law
29 enforcement representatives of cities, counties, cities and counties, or state or
30 federal governments for exclusive use by those governmental agencies if, prior to
31 the delivery, transfer, or sale of these firearms, written authorization from the head
32 of the agency authorizing the transaction is presented to the person from whom the
33 purchase, delivery, or transfer is being made. Proper written authorization is
34 defined as verifiable written certification from the head of the agency by which the
35 purchaser or transferee is employed, identifying the employee as an individual
36 authorized to conduct the transaction, and authorizing the transaction for the
37 exclusive use of the agency by which he or she is employed. Within 10 days of the
38 date a handgun is acquired by the agency, a record of the same shall be entered as
39 an institutional weapon into the Automated Firearms System (AFS) via the
40 California Law Enforcement Telecommunications System (CLETS) by the law
41 enforcement or state agency. Those agencies without access to AFS shall arrange

1 with the sheriff of the county in which the agency is located to input this
2 information via this system.

3 (3) Subdivision (b) of Section 12801 and the preceding provisions of this article
4 do not apply to the loan of a firearm made by an authorized law enforcement
5 representative of a city, county, or city and county, or the state or federal
6 government to a peace officer employed by that agency and authorized to carry a
7 firearm for the carrying and use of that firearm by that peace officer in the course
8 and scope of his or her duties.

9 (4) Subdivision (b) of Section 12801 and the preceding provisions of this article
10 do not apply to the delivery, sale, or transfer of a firearm by a law enforcement
11 agency to a peace officer pursuant to Section 10334 of the Public Contract Code.
12 Within 10 days of the date that a handgun is sold, delivered, or transferred
13 pursuant to Section 10334 of the Public Contract Code to that peace officer, the
14 name of the officer and the make, model, serial number, and other identifying
15 characteristics of the firearm being sold, transferred, or delivered shall be entered
16 into the Automated Firearms System (AFS) via the California Law Enforcement
17 Telecommunications System (CLETS) by the law enforcement or state agency that
18 sold, transferred, or delivered the firearm. Those agencies without access to AFS
19 shall arrange with the sheriff of the county in which the agency is located to input
20 this information via this system.

21 (5) Subdivision (b) of Section 12801 and the preceding provisions of this article
22 do not apply to the delivery, sale, or transfer of a firearm by a law enforcement
23 agency to a retiring peace officer who is authorized to carry a firearm pursuant to
24 Section 12027.1. Within 10 days of the date that a handgun is sold, delivered, or
25 transferred to that retiring peace officer, the name of the officer and the make,
26 model, serial number, and other identifying characteristics of the firearm being
27 sold, transferred, or delivered shall be entered into the Automated Firearms
28 System (AFS) via the California Law Enforcement Telecommunications System
29 (CLETS) by the law enforcement or state agency that sold, transferred, or
30 delivered the firearm. Those agencies without access to AFS shall arrange with the
31 sheriff of the county in which the agency is located to input this information via
32 this system.

33 (6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do
34 not apply to sales, deliveries, or transfers of firearms to authorized representatives
35 of cities, cities and counties, counties, or state or federal governments for those
36 governmental agencies where the entity is acquiring the weapon as part of an
37 authorized, voluntary program where the entity is buying or receiving weapons
38 from private individuals. Any weapons acquired pursuant to this paragraph shall
39 be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

40 (7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall
41 not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized
42 law enforcement representative of a city, county, city and county, state, or the
43 federal government to any public or private nonprofit historical society, museum,

1 or institutional collection or the purchase or receipt of that firearm by that public
2 or private nonprofit historical society, museum, or institutional collection if all of
3 the following conditions are met:

4 (A) The entity receiving the firearm is open to the public.

5 (B) The firearm prior to delivery is deactivated or rendered inoperable.

6 (C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

7 (D) The firearm is not prohibited by other provisions of law from being sold,
8 delivered, or transferred to the public at large.

9 (E) Prior to delivery, the entity receiving the firearm submits a written statement
10 to the law enforcement representative stating that the firearm will not be restored
11 to operating condition, and will either remain with that entity, or if subsequently
12 disposed of, will be transferred in accordance with the applicable provisions of
13 this article and, if applicable, Section 12801.

14 (F) Within 10 days of the date that the firearm is sold, loaned, delivered, or
15 transferred to that entity, the name of the government entity delivering the firearm,
16 and the make, model, serial number, and other identifying characteristics of the
17 firearm and the name of the person authorized by the entity to take possession of
18 the firearm shall be reported to the department in a manner prescribed by the
19 department.

20 (G) In the event of a change in the status of the designated representative, the
21 entity shall notify the department of a new representative within 30 days.

22 (8) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall
23 not apply to the sale, loan, delivery, or transfer of a firearm made by any person
24 other than a representative of an authorized law enforcement agency to any public
25 or private nonprofit historical society, museum, or institutional collection if all of
26 the following conditions are met:

27 (A) The entity receiving the firearm is open to the public.

28 (B) The firearm is deactivated or rendered inoperable prior to delivery.

29 (C) The firearm is not of a type prohibited from being sold, delivered, or
30 transferred to the public.

31 (D) Prior to delivery, the entity receiving the firearm submits a written statement
32 to the person selling, loaning, or transferring the firearm stating that the firearm
33 will not be restored to operating condition, and will either remain with that entity,
34 or if subsequently disposed of, will be transferred in accordance with the
35 applicable provisions of this article and, if applicable, Section 12801.

36 (E) If title to a handgun is being transferred to the public or private nonprofit
37 historical society, museum, or institutional collection, then the designated
38 representative of that public or private historical society, museum or institutional
39 collection within 30 days of taking possession of that handgun, shall forward by
40 prepaid mail or deliver in person to the Department of Justice, a single report
41 signed by both parties to the transaction, that includes information identifying the
42 person representing that public or private historical society, museum, or
43 institutional collection, how title was obtained and from whom, and a description

1 of the firearm in question, along with a copy of the written statement referred to in
2 subparagraph (D). The report forms that are to be completed pursuant to this
3 paragraph shall be provided by the Department of Justice.

4 (F) In the event of a change in the status of the designated representative, the
5 entity shall notify the department of a new representative within 30 days.

6 (b)(1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision
7 (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms
8 between or to importers and manufacturers of firearms licensed to engage in that
9 business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
10 United States Code and the regulations issued pursuant thereto.

11 (2) Subdivision (b) of Section 12801 shall not apply to the delivery, sale, or
12 transfer of a handgun to a person licensed pursuant to Section 12071, where the
13 licensee is receiving the handgun in the course and scope of his or her activities as
14 a person licensed pursuant to Section 12071.

15 (c)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer
16 of a firearm that is not a handgun by gift, bequest, intestate succession, or other
17 means by one individual to another if both individuals are members of the same
18 immediate family.

19 (2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of
20 a handgun by gift, bequest, intestate succession, or other means by one individual
21 to another if both individuals are members of the same immediate family and all of
22 the following conditions are met:

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

30 (B) The person taking title to the firearm shall first obtain a handgun safety
31 certificate.

32 (C) The person receiving the firearm is 18 years of age or older.

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

35 (A) Parent and child.

36 (B) Grandparent and grandchild.

37 (d)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of
38 firearms between persons who are personally known to each other for any lawful
39 purpose, if the loan does not exceed 30 days in duration and, when the firearm is a
40 handgun, commencing January 1, 2003, the individual being loaned the handgun
41 has a valid handgun safety certificate.

42 (2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall
43 not apply to the loan of a firearm where all of the following conditions exist:

1 (A) The person loaning the firearm is at all times within the presence of the
2 person being loaned the firearm.

3 (B) The loan is for a lawful purpose.

4 (C) The loan does not exceed three days in duration.

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

7 (E) The person loaning the firearm is 18 years of age or older.

8 (F) The person being loaned the firearm is 18 years of age or older.

9 (e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b)
10 of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for
11 service or repair, or to the return of the firearm to its owner by the gunsmith.

12 (f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall
13 not apply to the sale, delivery, or transfer of firearms by persons who reside in this
14 state to persons who reside outside this state who are licensed pursuant to Chapter
15 44 (commencing with Section 921) of Title 18 of the United States Code and the
16 regulations issued pursuant thereto, if the sale, delivery, or transfer is in
17 accordance with Chapter 44 (commencing with Section 921) of Title 18 of the
18 United States Code and the regulations issued pursuant thereto.

19 (g)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or
20 transfer of a firearm, other than a handgun, at auctions or similar events conducted
21 by nonprofit mutual or public benefit corporations organized pursuant to the
22 Corporations Code.

23 As used in this paragraph, the term “infrequent” shall not be construed to
24 prohibit different local chapters of the same nonprofit corporation from conducting
25 auctions or similar events, provided the individual local chapter conducts the
26 auctions or similar events infrequently. It is the intent of the Legislature that
27 different local chapters, representing different localities, be entitled to invoke the
28 exemption created by this paragraph, notwithstanding the frequency with which
29 other chapters of the same nonprofit corporation may conduct auctions or similar
30 events.

31 (2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm
32 other than a handgun, if the firearm is donated for an auction or similar event
33 described in paragraph (1) and the firearm is delivered to the nonprofit corporation
34 immediately preceding, or contemporaneous with, the auction or similar event.

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

1 electronic or telephonic report of the same as is indicated in subdivision (c) of
2 Section 12077.

3 (h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall
4 not apply to the loan of a firearm to a person 18 years of age or older for the
5 purposes of shooting at targets if the loan occurs on the premises of a target
6 facility that holds a business or regulatory license or on the premises of any club
7 or organization organized for the purposes of practicing shooting at targets upon
8 established ranges, whether public or private, if the firearm is at all times kept
9 within the premises of the target range or on the premises of the club or
10 organization.

11 (i)(1) Subdivision (d) of Section 12072 shall not apply to a person who takes
12 title or possession of a firearm that is not a handgun by operation of law if the
13 person is not prohibited by state or federal law from possessing, receiving,
14 owning, or purchasing a firearm.

15 (2) Subdivision (d) of Section 12072 shall not apply to a person who takes title
16 or possession of a handgun by operation of law if the person is not prohibited by
17 state or federal law from possessing, receiving, owning, or purchasing a firearm
18 and all of the following conditions are met:

19 (A) If the person taking title or possession is neither a levying officer as defined
20 in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, nor a
21 person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of
22 paragraph (2) of subdivision (u), the person shall, within 30 days of taking
23 possession, forward by prepaid mail or deliver in person to the Department of
24 Justice, a report of information concerning the individual taking possession of the
25 firearm, how title or possession was obtained and from whom, and a description of
26 the firearm in question. The reports that individuals complete pursuant to this
27 paragraph shall be provided to them by the department.

28 (B) If the person taking title or possession is receiving the firearm pursuant to
29 subparagraph (G) of paragraph (2) of subdivision (u), the person shall do both of
30 the following:

31 (i) Within 30 days of taking possession, forward by prepaid mail or deliver in
32 person to the department, a report of information concerning the individual taking
33 possession of the firearm, how title or possession was obtained and from whom,
34 and a description of the firearm in question. The reports that individuals complete
35 pursuant to this paragraph shall be provided to them by the department.

36 (ii) Prior to taking title or possession of the firearm, the person shall obtain a
37 handgun safety certificate.

38 (C) Where the person receiving title or possession of the handgun is a person
39 described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that
40 the person is delivered the firearm, the name and other information concerning the
41 person taking possession of the firearm, how title or possession of the firearm was
42 obtained and from whom, and a description of the firearm by make, model, serial
43 number, and other identifying characteristics, shall be entered into the Automated

1 Firearms System (AFS) via the California Law Enforcement Telecommunications
2 System (CLETS) by the law enforcement or state agency that transferred or
3 delivered the firearm. Those agencies without access to AFS shall arrange with the
4 sheriff of the county in which the agency is located to input this information via
5 this system.

6 (D) Where the person receiving title or possession of the handgun is a person
7 described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that
8 the person is delivered the firearm, the name and other information concerning the
9 person taking possession of the firearm, how title or possession of the firearm was
10 obtained and from whom, and a description of the firearm by make, model, serial
11 number, and other identifying characteristics, shall be entered into the AFS via the
12 CLETS by the law enforcement or state agency that transferred or delivered the
13 firearm. Those agencies without access to AFS shall arrange with the sheriff of the
14 county in which the agency is located to input this information via this system. In
15 addition, that law enforcement agency shall not deliver that handgun to the person
16 referred to in this subparagraph unless, prior to the delivery of the same, the
17 person presents proof to the agency that he or she is the holder of a handgun safety
18 certificate.

19 (3) Subdivision (d) of Section 12072 shall not apply to a person who takes
20 possession of a firearm by operation of law in a representative capacity who
21 subsequently transfers ownership of the firearm to himself or herself in his or her
22 individual capacity. In the case of a handgun, the individual shall obtain a handgun
23 safety certificate prior to transferring ownership to himself or herself, or taking
24 possession of a handgun in an individual capacity.

25 (j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall
26 not apply to deliveries, transfers, or returns of firearms made pursuant to Section
27 12021.3, 12028, 12028.5, or 12030.

28 (k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of
29 Section 12801 shall not apply to any of the following:

30 (1) The delivery, sale, or transfer of unloaded firearms that are not handguns by
31 a dealer to another dealer upon proof of compliance with the requirements of
32 paragraph (1) of subdivision (f) of Section 12072.

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

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

40 (4) The delivery, sale, or transfer of unloaded firearms by one dealer to another
41 dealer if the firearms are intended as merchandise in the receiving dealer's
42 business upon proof of compliance with the requirements of paragraph (1) of
43 subdivision (f) of Section 12072.

1 (5) The delivery, sale, or transfer of an unloaded firearm that is not a handgun
2 by a dealer to himself or herself.

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

11 (l) A person who is exempt from subdivision (d) of Section 12072 or is
12 otherwise not required by law to report his or her acquisition, ownership, or
13 disposal of a handgun or who moves out of this state with his or her handgun may
14 submit a report of the same to the Department of Justice in a format prescribed by
15 the department.

16 (m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall
17 not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as
18 merchandise in the wholesaler's business by manufacturers or importers licensed
19 to engage in that business pursuant to Chapter 44 (commencing with Section 921)
20 of Title 18 of the United States Code and the regulations issued pursuant thereto,
21 or by another wholesaler, if the delivery, sale, or transfer is made in accordance
22 with Chapter 44 (commencing with Section 921) of Title 18 of the United States
23 Code.

24 (n)(1) The waiting period described in Section 12071 or 12072 shall not apply to
25 the delivery, sale, or transfer of a handgun by a dealer in either of the following
26 situations:

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

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

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

32 (A) If the dealer is receiving the firearm from another dealer, the dealer
33 receiving the firearm shall present proof to the dealer delivering the firearm that he
34 or she is licensed pursuant to Section 12071 by complying with paragraph (1) of
35 subdivision (f) of Section 12072.

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

1 information concerning the purchaser or transferee as is indicated in subdivision
2 (b) of Section 12077.

3 (o) Section 12071 and subdivisions (c), (d), and paragraph (1) of subdivision (f)
4 of Section 12072 shall not apply to the delivery, sale, or transfer of firearms
5 regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200),
6 or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer
7 is conducted in accordance with the applicable provisions of Section 12020,
8 Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with
9 Section 12275).

10 (p)(1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072
11 shall not apply to the loan of a firearm that is not a handgun to a minor, with the
12 express permission of the parent or legal guardian of the minor, if the loan does
13 not exceed 30 days in duration and is for a lawful purpose.

14 (2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section
15 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a
16 handgun to a minor by a person who is not the parent or legal guardian of the
17 minor if all of the following circumstances exist:

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

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

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

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

32 (3) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072, and
33 subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a
34 minor by his or her parent or legal guardian if both of the following circumstances
35 exist:

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

41 (B) The duration of the loan does not exceed the amount of time that is
42 reasonably necessary to engage in the lawful, recreational sport, including, but not
43 limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a

1 motion picture, television, or video production, or entertainment or theatrical
2 event, the nature of which involves the use of a firearm.

3 (4) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall
4 not apply to the transfer or loan of a firearm that is not a handgun to a minor by his
5 or her parent or legal guardian.

6 (5) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall
7 not apply to the transfer or loan of a firearm that is not a handgun to a minor by his
8 or her grandparent who is not the legal guardian of the minor if the transfer is done
9 with the express permission of the parent or legal guardian of the minor.

10 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of Section 12072 shall
11 not apply to the sale of a handgun if both of the following requirements are
12 satisfied:

13 (A) The sale is to a person who is at least 18 years of age.

14 (B) The firearm is an antique firearm as defined in paragraph (16) of subsection
15 (a) of Section 921 of Title 18 of the United States Code.

16 (q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that
17 is not a handgun to a licensed hunter for use by that licensed hunter for a period of
18 time not to exceed the duration of the hunting season for which that firearm is to
19 be used.

20 (r) The waiting period described in Section 12071 or 12072 shall not apply to
21 the delivery, sale, or transfer of a firearm to the holder of a special weapons permit
22 issued by the Department of Justice issued pursuant to Section 12095, 12230,
23 12250, or 12305. On the date that the application to purchase is completed, the
24 dealer delivering the firearm shall transmit to the Department of Justice an
25 electronic or telephonic report of the same as is indicated in subdivision (b) or (c)
26 of Section 12077.

27 (s)(1) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801
28 shall not apply to the infrequent loan of an unloaded firearm by a person who is
29 neither a dealer as defined in Section 12071 nor a federal firearms licensee
30 pursuant to Chapter 44 of Title 18 of the United States Code, to a person 18 years
31 of age or older for use solely as a prop in a motion picture, television, video,
32 theatrical, or other entertainment production or event.

33 (2) Subdivision (d), and paragraph (1) of subdivision (f), of Section 12072, and
34 subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm
35 by a person who is not a dealer as defined in Section 12071 but who is a federal
36 firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a
37 person who possesses a valid entertainment firearms permit issued pursuant to
38 Section 12081, for use solely as a prop in a motion picture, television, video,
39 theatrical, or other entertainment production or event. The person loaning the
40 firearm pursuant to this paragraph shall retain a photocopy of the entertainment
41 firearms permit as proof of compliance with this requirement.

42 (3) Subdivision (b) of Section 12071, subdivision (c) of, and paragraph (1) of
43 subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not

1 apply to the loan of an unloaded firearm by a dealer as defined in Section 12071,
2 to a person who possesses a valid entertainment firearms permit issued pursuant to
3 Section 12081, for use solely as a prop in a motion picture, television, video,
4 theatrical, or other entertainment production or event. The dealer shall retain a
5 photocopy of the entertainment firearms permit as proof of compliance with this
6 requirement.

7 (4) Subdivision (b) of Section 12071, subdivision (c) and paragraph (1) of
8 subdivision (f) of Section 12072, and subdivision (b) of Section 12801 shall not
9 apply to the loan of an unloaded firearm to a consultant-evaluator by a person
10 licensed pursuant to Section 12071 if the loan does not exceed 45 days from the
11 date of delivery. At the time of the loan, the consultant-evaluator shall provide the
12 following information, which the dealer shall retain for two years:

13 (A) A photocopy of a valid, current, government-issued identification to
14 determine the consultant-evaluator's identity, including, but not limited to, a
15 California driver's license, identification card, or passport.

16 (B) A photocopy of the consultant-evaluator's valid, current certificate of
17 eligibility.

18 (C) A letter from the person licensed as an importer, manufacturer, or dealer
19 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
20 States Code, with whom the consultant-evaluator has a bona fide business
21 relationship. The letter shall detail the bona fide business purposes for which the
22 firearm is being loaned and confirm that the consultant-evaluator is being loaned
23 the firearm as part of a bona fide business relationship.

24 (D) The signature of the consultant-evaluator on a form indicating the date the
25 firearm is loaned and the last day the firearm may be returned.

26 (t)(1) The waiting period described in Section 12071 or 12072 shall not apply to
27 the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in
28 Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by
29 a dealer to a person who is licensed as a collector pursuant to Chapter 44
30 (commencing with Section 921) of Title 18 of the United States Code and the
31 regulations issued pursuant thereto who has a current certificate of eligibility
32 issued to him or her by the Department of Justice pursuant to Section 12071. On
33 the date that the delivery, sale, or transfer is made, the dealer delivering the
34 firearm shall transmit to the Department of Justice an electronic or telephonic
35 report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

36 (2) Subdivision (d) and paragraph (1) of subdivision (f) of Section 12072 shall
37 not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun,
38 which is a curio or relic manufactured at least 50 years prior to the current date,
39 but not including replicas thereof, as defined in Section 478.11 of Title 27 of the
40 Code of Federal Regulations, or its successor.

41 (u) As used in this section:

42 (1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of
43 Section 12070.

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

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

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

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

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

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

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

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

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

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

22 (J) The transfer of a firearm by a law enforcement agency to the person who
23 found the firearm where the delivery is to the person as the finder of the firearm
24 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3
25 of the Civil Code.

26  **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
27 2008 Cal. Stat. ch. 698.

28 **Penal Code § 12079. Permit for possession, transportation, or sale of large capacity**
29 **magazines**

30 12079. (a) Upon a showing that good cause exists, the Department of Justice
31 may issue permits for the possession, transportation, or sale between a person
32 licensed pursuant to Section 12071 and an out-of-state client, of large capacity
33 magazines.

34 (b) For purposes of this section, “large capacity magazine” shall have the same
35 meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

36 **Penal Code § 12080. Pamphlet summarizing California firearms laws**

37 12080. (a) The Department of Justice shall prepare a pamphlet which
38 summarizes California firearms laws as they pertain to persons other than law
39 enforcement officers or members of the armed services.

40 (b) The pamphlet shall include the following matters:

41 (1) Lawful possession.

- 1 (2) Licensing procedures.
- 2 (3) Transportation and use of firearms.
- 3 (4) Acquisition of hunting licenses.
- 4 (5) The safe handling and use of firearms.
- 5 (6) Various methods of safe storage and child proofing of firearms.
- 6 (7) The availability of firearms safety programs and devices.
- 7 (8) The responsibilities of firearms ownership.
- 8 (9) The operation of various types of firearms.
- 9 (10) The lawful use of deadly force.

10 (c) The department shall offer copies of the pamphlet at actual cost to firearms
11 dealers licensed pursuant to **Section 12071** who shall have copies of the most
12 current version available for sale to retail purchasers or transferees of firearms.
13 The cost of the pamphlet, if any, may be added to the sale price of the firearm.
14 Other interested parties may purchase copies directly from the Department of
15 General Services. The pamphlet shall declare that it is merely intended to provide
16 a general summary of laws applicable to firearms and is not designed to provide
17 individual guidance for specific areas. Individuals having specific questions shall
18 be directed to contact their local law enforcement agency or private counsel.

19 (d) The Department of Justice or any other public entity shall be immune from
20 any liability arising from the drafting, publication, or dissemination of the
21 pamphlet or any reliance upon it. All receipts from the sale of these pamphlets
22 shall be deposited as reimbursements to the support appropriation for the
23 Department of Justice.

24 **Penal Code § 12081. Entertainment Firearms Permit**

25 12081. (a) Any person who is at least 21 years of age may apply for an
26 entertainment firearms permit from the Department of Justice that authorizes the
27 permit holder to possess firearms loaned to him or her for use solely as a prop in a
28 motion picture, television, video, theatrical, or other entertainment production or
29 event. Upon receipt of an initial or renewal application submitted as specified in
30 **subdivision (b)**, the department shall examine its records, records the department
31 is authorized to request from the State Department of Mental Health pursuant to
32 **Section 8104 of the Welfare and Institutions Code**, and records of the National
33 Instant Criminal Background Check System as described in **subsection (t) of**
34 **Section 922 of Title 18 of the United States Code**, in order to determine if the
35 applicant is prohibited from possessing or receiving firearms. The department
36 shall issue an entertainment firearms permit only if the records indicate that the
37 applicant is not prohibited from possessing or receiving firearms pursuant to any
38 federal, state, or local law.

39 (b)(1) Requests for entertainment firearms permits shall be made on application
40 forms prescribed by the Department of Justice that require applicant information,
41 including, but not limited to, the following:

- 42 (A) Complete name.

- 1 (B) Residential and mailing address.
2 (C) Telephone number.
3 (D) Date of birth.
4 (E) Place of birth.
5 (F) Country of citizenship and, if other than United States, alien number or
6 admission number.
7 (G) Valid driver's license number or valid identification card number issued by
8 the California Department of Motor Vehicles.
9 (H) Social security number.
10 (I) Signature.
- 11 (2) All applications must be submitted with the appropriate fee as specified in
12 subdivision (c).
- 13 (3) An initial application for an entertainment firearms permit shall require the
14 submission of fingerprint images and related information in a manner prescribed
15 by the department, for the purpose of obtaining information as to the existence and
16 nature of a record of state or federal level convictions and state or federal level
17 arrests for which the department establishes that the individual was released on
18 bail or on his or her own recognizance pending trial as needed to determine
19 whether the applicant may be issued the permit. Requests for federal level criminal
20 offender record information received by the Department of Justice pursuant to this
21 section shall be forwarded by the department to the Federal Bureau of
22 Investigation.
- 23 (4) The Department of Justice shall review the criminal offender record
24 information specified in subdivision (l) of Section 11105 for entertainment
25 firearms permit applicants.
- 26 (5) The Department of Justice shall review subsequent arrests, pursuant to
27 Section 11105.2, to determine the continuing validity of the permit as specified in
28 subdivision (d) for all entertainment firearms permit holders.
- 29 (6) Any person who furnishes a fictitious name or address or knowingly
30 furnishes any incorrect information or knowingly omits any information required
31 to be provided on this application is guilty of a misdemeanor.
- 32 (c) The Department of Justice shall recover the full costs of administering the
33 program by assessing the following application fees:
- 34 (1) For the initial application: one hundred four dollars (\$104). Of this sum,
35 fifty-six dollars (\$56) shall be deposited into the Fingerprint Fee Account, and
36 forty-eight dollars (\$48) shall be deposited into the Dealer Record of Sale
37 Account.
- 38 (2) For each annual renewal application: twenty-nine dollars (\$29), which shall
39 be deposited into the Dealer Record of Sale Account.
- 40 (d) The implementation of subdivisions (a), (b), and (c) by the department is
41 exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with
42 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

1 (e) The department shall annually review and shall adjust the fees specified in
2 subdivision (c), if necessary, to fully fund, but not to exceed the actual costs of,
3 the permit program provided for by this section, including enforcement of the
4 program.

5 (f) An entertainment firearms permit issued by the Department of Justice shall
6 be valid for one year from the date of issuance. If at any time during that year the
7 permit holder becomes prohibited from possessing or receiving firearms pursuant
8 to any federal, state, or local law, his or her entertainment firearms permit shall be
9 no longer valid.

10 **Penal Code § 12082. Procedure for sale, loan, or transfer of firearm**

11 12082. (a) A person shall complete any sale, loan, or transfer of a firearm
12 through a person licensed pursuant to Section 12071 in accordance with this
13 section in order to comply with subdivision (d) of Section 12072. The seller or
14 transferor or the person loaning the firearm shall deliver the firearm to the dealer
15 who shall retain possession of that firearm. The dealer shall then deliver the
16 firearm to the purchaser or transferee or the person being loaned the firearm, if it is
17 not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer
18 cannot legally deliver the firearm to the purchaser or transferee or the person being
19 loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of
20 the waiting period described in Sections 12071 and 12072, return the firearm to
21 the transferor or seller or the person loaning the firearm. The dealer shall not
22 return the firearm to the seller or transferor or the person loaning the firearm when
23 to do so would constitute a violation of subdivision (a) of Section 12072. If the
24 dealer cannot legally return the firearm to the transferor or seller or the person
25 loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff
26 of the county or the chief of police or other head of a municipal police department
27 of any city or city and county who shall then dispose of the firearm in the manner
28 provided by Sections 12028 and 12032. The purchaser or transferee or person
29 being loaned the firearm may be required by the dealer to pay a fee not to exceed
30 ten dollars (\$10) per firearm, and no other fee may be charged by the dealer for a
31 sale, loan, or transfer of a firearm conducted pursuant to this section, except for
32 the applicable fees that may be charged pursuant to Sections 12076, 12076.5, and
33 12088.9 and forwarded to the Department of Justice, and the fees set forth in
34 Section 12805. Nothing in these provisions shall prevent a dealer from charging a
35 smaller fee. The dealer may not charge any additional fees.

36 (b) The Attorney General shall adopt regulations under this section to do all of
37 the following:

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

1 (2) Where a personal handgun importer is selling or transferring a pistol,
2 revolver, or other firearm capable of being concealed upon the person to comply
3 with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section
4 12072, to allow a personal handgun importer's ownership of the pistol, revolver,
5 or other firearm capable of being concealed upon the person being sold or
6 transferred to be recorded in a manner that if the firearm is returned to that
7 personal handgun importer because the sale or transfer cannot be completed, the
8 Department of Justice will have sufficient information about that personal
9 handgun importer so that a record of his or her ownership can be maintained in the
10 registry provided by subdivision (c) of Section 11106.

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

15 (c) Notwithstanding any other provision of law, a dealer who does not sell,
16 transfer, or keep an inventory of handguns is not required to process private party
17 transfers of handguns.

18 (d) A violation of this section by a dealer is a misdemeanor.

19 **Staff Note.** The text of this provision reflects an amendment made by SB 1241 (Margett). See
20 2008 Cal. Stat. ch. 699.

21 **Penal Code § 12083. Centralized list of exempted federal firearms licensees**

22 12083. (a) Commencing January 1, 2008, the Department of Justice shall keep a
23 centralized list of persons who identify themselves as being licensed pursuant to
24 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
25 as a dealer, pawnbroker, importer or manufacturer of firearms whose licensed
26 premises are within this state and who declare to the department an exemption
27 from the firearms dealer licensing requirements of Section 12070. The list shall be
28 known as the centralized list of exempted federal firearms licensees. To qualify for
29 placement on the centralized list, an applicant shall do all of the following:

30 (1) Possess a valid federal firearms license pursuant to Chapter 44 (commencing
31 with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker,
32 importer, or manufacturer of firearms.

33 (2) Maintain eligibility under California law to possess firearms by possessing a
34 current, valid certificate of eligibility pursuant to Section 12071.

35 (3) Maintain with the department a signed declaration enumerating the
36 applicant's statutory exemptions from licensing requirements of Section 12070.
37 Any person furnishing a fictitious name, knowingly furnishing any incorrect
38 information, or knowingly omitting any information for the declaration shall be
39 guilty of a misdemeanor.

40 (b) Commencing January 1, 2008, the department shall assess an annual fee of
41 one hundred fifteen dollars (\$115) to cover its costs of maintaining the centralized
42 list of exempted federal firearms licensees prescribed by subdivision (a),

1 conducting inspections in accordance with this section, and for the cost of
2 maintaining the firearm shipment verification number system described in
3 subdivision (f) of Section 12072. The department may increase the fee at a rate not
4 to exceed the increase in the California Consumer Price Index as compiled and
5 reported by the Department of Industrial Relations. The fees collected shall be
6 deposited in the Dealers' Record of Sale Special Account.

7 (c)(1) Any person licensed pursuant to Chapter 44 (commencing with Section
8 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or
9 manufacturer of firearms whose licensed premises are within this state shall not
10 import or receive firearms from any source unless listed on the centralized list of
11 firearms dealers pursuant to Section 12071, or the centralized list of exempted
12 federal firearms licensees pursuant to subdivision (a), or the centralized list of
13 firearms manufacturers pursuant to subdivision (f) of Section 12086.

14 (2) A violation of this subdivision is a misdemeanor.

15 (d)(1) All persons on the centralized list of exempted federal firearms licensees
16 prescribed by subdivision (a) shall record and keep on file for three years, the
17 verification number that shall accompany firearms received from other federal
18 firearms licensees pursuant to subdivision (f) of Section 12072.

19 (2) A violation of this subdivision is cause for immediate removal from the
20 centralized list.

21 (e) Information compiled from the list described in subdivision (a) shall be made
22 available for the following purposes:

23 (1) Requests from local, state, and federal law enforcing agencies and the duly
24 constituted city, county, and city and county licensing authorities.

25 (2) When the information is requested by a person licensed pursuant to Chapter
26 44 (commencing with Section 921) of Title 18 of the United States Code for
27 determining the validity of the license for firearm shipments.

28 (f) The department may conduct onsite inspections at the business premises of a
29 person on the centralized list described in subdivision (a) to determine compliance
30 with firearms laws pursuant to Article 4 (commencing with Section 12070) of
31 Chapter 1 of Title 2 of Part 4 of the Penal Code. The department shall work in
32 consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to
33 ensure that licensees are not subject to duplicative inspections. During the
34 inspection the following firearm records shall be made available for review:

35 (1) Federal records referred to in subdivision (a) of Section 478.125 of Title 27
36 of the Code of Federal Regulations and the bound book containing the same
37 information referred to in Section 478.124a and subdivision (e) of Section 478.125
38 of Title 27 of the Code of Federal Regulations.

39 (2) Verification numbers issued pursuant to subdivision (f) of Section 12072.

40 (3) Any other records requested by the department to determine compliance with
41 this article.

42 (g) The department may remove from the centralized list described in
43 subdivision (a), any person who violates this article.

1 (h) The department may adopt regulations as necessary to carry out the
2 provisions of this section, subdivision (f) of Section 12072, and Section 12071.
3 The department shall work in consultation with the Bureau of Alcohol, Tobacco,
4 Firearms, and Explosives to ensure that state regulations are not duplicative of
5 federal regulations.

6 **Penal Code § 12085. Prohibition against unlicensed manufacture of firearm**

7 12085. (a) Commencing July 1, 1999, no person, firm, or corporation licensed to
8 manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of
9 Title 18 of the United States Code may manufacture firearms within this state
10 unless licensed pursuant to Section 12086.

11 (b) Subdivision (a) does not apply to a person licensed to manufacture firearms
12 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
13 States Code who manufactures fewer than 100 firearms in a calendar year within
14 this state.

15 (c) If a person, firm, or corporation required to be licensed pursuant to Section
16 12086 ceases operations, then the records required pursuant to paragraphs (6) and
17 (10) of subdivision (c) of Section 12086 shall be forwarded to the federal Bureau
18 of Alcohol, Tobacco, and Firearms within three days of the closure of business.

19 (d) A violation of this section is a misdemeanor.

20 (e)(1) As used in this section and Section 12086, the term “firearm” includes
21 the frame or receiver of the weapon.

22 (2) As used in this section and Section 12086, the term “firearm” includes the
23 unfinished frame or receiver of a weapon that can be readily converted to the
24 functional condition of a finished frame or receiver.

25 (3) For purposes of this section and Section 12086, the term “firearm” does not
26 include an unloaded firearm that is defined as an “antique firearm” in paragraph
27 (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

28 **Penal Code § 12086. Issuance, forfeiture, and conditions of license to manufacture firearms**

29 12086. (a)(1) As used in this section, “licensee” means a person, firm, or
30 corporation that satisfies both of the following:

31 (A) Has a license issued pursuant to paragraph (2) of subdivision (b).

32 (B) Is among those recorded in the centralized list specified in subdivision (f).

33 (2) As used in this section, “department” means the Department of Justice.

34 (b)(1) The Department of Justice shall accept applications for, and shall grant
35 licenses permitting, the manufacture of firearms within this state. The department
36 shall inform applicants who are denied licenses of the reasons for the denial in
37 writing.

38 (2) No license shall be granted by the department unless and until the applicant
39 presents proof that he or she has all of the following:

40 (A) A valid license to manufacture firearms issued pursuant to Chapter 44
41 (commencing with Section 921) of Title 18 of the United States Code.

1 (B) Any regulatory or business license, or licenses, required by local
2 government.

3 (C) A valid seller's permit or resale certificate issued by the State Board of
4 Equalization, if applicable.

5 (D) A certificate of eligibility issued by the Department of Justice pursuant to
6 paragraph (4) of subdivision (a) of Section 12071.

7 (3) The department shall adopt regulations to administer this section and Section
8 12085 and shall recover the full costs of administering the program by collecting
9 fees from license applicants. Recoverable costs shall include, but not be limited to,
10 the costs of inspections and maintaining a centralized list of licensed firearm
11 manufacturers. The fee for licensed manufacturers who produce fewer than 500
12 firearms in a calendar year within this state shall not exceed two hundred fifty
13 dollars (\$250) per year or the actual costs of inspections and maintaining a
14 centralized list of firearm manufacturers and any other duties of the department
15 required pursuant to this section and Section 12085, whichever is less.

16 (4) A license granted by the department shall be valid for no more than one year
17 from the date of issuance and shall be in the form prescribed by the Attorney
18 General.

19 (c) A licensee shall comply with the following prohibitions and requirements:

20 (1) The business shall be conducted only in the buildings designated in the
21 license.

22 (2) The license or a copy thereof, certified by the department, shall be displayed
23 on the premises where it can easily be seen.

24 (3) Whenever a licensee discovers that a firearm has been stolen or is missing
25 from the licensee's premises, the licensee shall report the loss or theft within 48
26 hours of the discovery to all of the following:

27 (A) The Department of Justice, in a manner prescribed by the department.

28 (B) The federal Bureau of Alcohol, Tobacco, and Firearms.

29 (C) The police department in the city or city and county where the building
30 designated in the license is located.

31 (D) If there is no police department in the city or city and county where the
32 building designated in the license is located, the sheriff of the county where the
33 building designated in the license is located.

34 (4)(A) The licensee shall require that each employee obtain a certificate of
35 eligibility pursuant to paragraph (4) of subdivision (a) of Section 12071, which
36 shall be renewed annually, prior to being allowed to come into contact with any
37 firearm.

38 (B) The licensee shall prohibit any employee who the licensee knows or
39 reasonably should know is prohibited by state or federal law from possessing,
40 receiving, owning, or purchasing a firearm from coming into contact with any
41 firearm.

1 (5)(A) Each firearm the licensee manufactures in this state shall be identified
2 with a unique serial number stamped onto the firearm utilizing the method of
3 compression stamping.

4 (B) Licensed manufacturers who produce fewer than 500 firearms in a calendar
5 year within this state may serialize long guns only by utilizing a method of
6 compression stamping or by engraving the serial number onto the firearm.

7 (C) The licensee shall stamp the serial number onto the firearm within one
8 business day of the time the receiver or frame is manufactured.

9 (D) The licensee shall not use the same serial number for more than one firearm.

10 (6)(A) The licensee shall record the type, model, caliber, or gauge, and serial
11 number of each firearm manufactured or acquired, and the date of the manufacture
12 or acquisition, within one business day of the manufacture or acquisition.

13 (B) The licensee shall maintain permanently within the building designated in
14 the license the records required pursuant to subparagraph (A).

15 (C) Backup copies of the records described in subparagraph (A), whether
16 electronic or hard copy, shall be made at least once a month. These backup records
17 shall be maintained in a facility separate from the one in which the primary
18 records are stored.

19 (7)(A) The licensee shall allow the department to inspect the building designated
20 in the license to ensure compliance with the requirements of this section.

21 (B) The licensee shall allow any peace officer, authorized law enforcement
22 employee, or Department of Justice employee designated by the Attorney General,
23 upon the presentation of proper identification, to inspect facilities and records
24 during business hours to ensure compliance with the requirements of this section.

25 (8) The licensee shall store in a secure facility all firearms manufactured and all
26 barrels for firearms manufactured.

27 (9)(A) The licensee shall notify the chief of police or other head of the
28 municipal police department in the city or city and county where the building
29 designated in the license is located that the licensee is manufacturing firearms
30 within that city or city and county and the location of the licensed premises.

31 (B) If there is no police department in the city or city and county where the
32 building designated in the license is located, the licensee shall notify the sheriff of
33 the county where the building designated in the license is located that the licensee
34 is manufacturing firearms within that county and the location of the licensed
35 premises.

36 (10) For at least 10 years, the licensee shall maintain records of all firearms that
37 are lost or stolen, as prescribed by the department.

38 (d) Except as otherwise provided in subdivision (e), as used in this section, a
39 **“secure facility”** means that the facility satisfies all of the following:

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

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

- 1 (3) All perimeter doorways are designed in one of the following ways:
- 2 (A) A windowless steel security door equipped with both a deadbolt and a
3 doorknob lock.
- 4 (B) A windowed metal door equipped with both a deadbolt and a doorknob lock.
5 If the window has an opening of five inches or more measured in any direction,
6 the window is covered with steel bars of at least one-half inch diameter or metal
7 grating of at least nine gauge affixed to the exterior or interior of the door.
- 8 (C) A metal grate that is padlocked and affixed to the licensee's premises
9 independent of the door and doorframe.
- 10 (D) Hinges and hasps attached to doors by welding, riveting, or bolting with
11 nuts on the inside of the door.
- 12 (E) Hinges and hasps installed so that they cannot be removed when the doors
13 are closed and locked.
- 14 (4) Heating, ventilating, air-conditioning, and service openings are secured with
15 steel bars, metal grating, or an alarm system.
- 16 (5) No perimeter metal grates are capable of being entered by any person.
- 17 (6) Steel bars used to satisfy the requirements of **this subdivision** are not capable
18 of being entered by any person.
- 19 (7) Perimeter walls of rooms in which firearms are stored are constructed of
20 concrete or at least 10-gauge expanded steel wire mesh utilized along with typical
21 wood frame and drywall construction. If firearms are not stored in a vault, the
22 facility shall use an exterior security-type door along with a high security, single-
23 key deadbolt, or other door that is more secure. All firearms shall be stored in a
24 separate room away from any general living area or work area. Any door to the
25 storage facility shall be locked while unattended.
- 26 (8) Perimeter doorways, including the loading dock area, are locked at all times
27 when not attended by paid employees or contracted employees, including security
28 guards.
- 29 (9) Except when a firearm is currently being tested, any ammunition on the
30 premises is removed from all manufactured guns and stored in a separate and
31 locked room, cabinet, or box away from the storage area for the firearms.
32 Ammunition may be stored with a weapon only in a locked safe.
- 33 (e) For purposes of **this section**, any licensed manufacturer who produces fewer
34 than 500 firearms in a calendar year within this state may maintain a **"secure**
35 **facility"** by complying with all of the requirements described in **subdivision (d)**,
36 or may design a security plan that is approved by the Department of Justice or the
37 federal Bureau of Alcohol, Tobacco, and Firearms.
- 38 (1) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and
39 Firearms, the approved plan, along with proof of approval, shall be filed with the
40 Department of Justice and the local police department. If there is no police
41 department, the filing shall be with the county sheriff's office.

1 (2) If a security plan is approved by the Department of Justice, the approved
2 plan, along with proof of approval, shall be filed with the local police department.
3 If there is no police department, the filing shall be with the county sheriff's office.

4 (f)(1) Except as otherwise provided in this subdivision, the Department of
5 Justice shall maintain a centralized list of all persons licensed pursuant to
6 paragraph (2) of subdivision (b). The centralized list shall be provided annually to
7 each police department and county sheriff within the state.

8 (2) Except as provided in paragraph (3), the license of any licensee who violates
9 this section may be revoked.

10 (3) The license of any licensee who knowingly or with gross negligence violates
11 this section or violates this section three times shall be revoked, and that person,
12 firm, or corporation shall become permanently ineligible to obtain a license
13 pursuant to this section.

14 (g)(1) Upon the revocation of the license, notification shall be provided to local
15 law enforcement authorities in the jurisdiction where the licensee's business is
16 located and to the federal Bureau of Alcohol, Tobacco, and Firearms.

17 (2) The department shall make information concerning the location and name of
18 a licensee available, upon request, for the following purposes only:

19 (A) Law enforcement.

20 (B) When the information is requested by a person licensed pursuant to Chapter
21 44 (commencing with Section 921) of Title 18 of the United States Code for
22 determining the validity of the license for firearm shipments.

23 (3) Notwithstanding paragraph (2), the department shall make the name and
24 business address of a licensee available to any person upon written request.

25 (h) The Department of Justice shall maintain and make available upon request
26 information concerning the number of inspections conducted and the amount of
27 fees collected pursuant to paragraph (3) of subdivision (b), the number of licensees
28 removed from the centralized list described in subdivision (f), and the number of
29 licensees found to have violated this section.

30 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
31 2008 Cal. Stat. ch. 698.

32 Article 4.5. Firearms Safety Devices

33 Penal Code § 12087. Aroner-Scott-Hayden Firearms Safety Act of 1999

34 12087. This article shall be known and may be cited as the "Aroner-Scott-
35 Hayden Firearms Safety Act of 1999."

36 Penal Code § 12087.5. Legislative findings

37 12087.5. The Legislature makes the following findings:

38 (a) In the years 1987 to 1996, nearly 2,200 children in the United States under
39 the age of 15 years died in unintentional shootings. In 1996 alone, 138 children
40 were shot and killed unintentionally. Thus, more than 11 children every month, or

1 one child every three days, were shot or killed unintentionally in firearms-related
2 incidents.

3 (b) The United States leads the industrialized world in the rates of children and
4 youth lost to unintentional, firearms-related deaths. A 1997 study from the federal
5 Centers for Disease Control and Prevention reveals that for unintentional firearm-
6 related deaths for children under the age of 15, the rate in the United States was
7 nine times higher than in 25 other industrialized countries combined.

8 (c) While the number of unintentional deaths from firearms is an unacceptable
9 toll on America’s children, nearly eight times that number are treated in U.S.
10 hospital emergency rooms each year for nonfatal unintentional gunshot wounds.

11 (d) A study of unintentional firearm deaths among children in California found
12 that unintentional gunshot wounds most often involve handguns.

13 (e) A study in the December 1995 issue of the Archives of Pediatric and
14 Adolescent Medicine found that children as young as three years old are strong
15 enough to fire most commercially available handguns. The study revealed that 25
16 percent of three to four year olds and 70 percent of five to six year olds had
17 sufficient finger strength to fire 59 (92 percent) of the 64 commonly available
18 handguns referenced in the study.

19 (f) The Government Accounting Office (GAO), in its March 1991 study,
20 “Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be
21 Prevented,” estimates that 31 percent of accidental deaths caused by firearms
22 might be prevented by the addition of two safety devices: a child-resistant safety
23 device that automatically engages and a device that indicates whether the gun is
24 loaded. According to the study results, of the 107 unintentional firearms-related
25 fatalities the GAO examined for the calendar years 1988 and 1989, 8 percent could
26 have been prevented had the firearm been equipped with a child-resistant safety
27 device. This 8 percent represents instances in which children under the age of six
28 unintentionally shot and killed themselves or other persons.

29 (g) Currently, firearms are the only products manufactured in the United States
30 that are not subject to minimum safety standards.

31 (h) A 1997 public opinion poll conducted by the National Opinion Research
32 Center at the University of Chicago in conjunction with the Johns Hopkins Center
33 for Gun Policy and Research found that 74 percent of Americans support safety
34 regulation of the firearms industry.

35 (i) Some currently available trigger locks and other similar devices are
36 inadequate to prevent the accidental discharge of the firearms to which they are
37 attached, or to prevent children from gaining access to the firearm.

38 **Penal Code § 12087.6. Definitions**

39 12087.6. As used in this article:

40 (a) **“Firearms safety device”** means a device other than a gun safe that locks
41 and is designed to prevent children and unauthorized users from firing a firearm.

1 The device may be installed on a firearm, be incorporated into the design of the
2 firearm, or prevent access to the firearm.

3 (b) **“Gun safe”** means a locking container that fully contains and secures one or
4 more firearms, and that meets the standards for gun safes adopted pursuant to
5 **Section 12088.2**.

6 (c) **“Long-gun safe”** means a locking container designed to fully contain and
7 secure a rifle as defined in **paragraph (20) of subdivision (c) of Section 12020** or a
8 shotgun as defined in **paragraph (21) of subdivision (c) of Section 12020**, that has
9 a locking system consisting of either a mechanical combination lock or an
10 electronic combination lock that has at least 1,000 possible unique combinations
11 consisting of a minimum of three numbers, letters, or symbols per combination,
12 and that is not listed on the roster maintained pursuant to **subdivision (d) of**
13 **Section 12088**.

14 **Penal Code § 12088. Duties of the Department of Justice**

15 12088. (a) The Department of Justice shall certify laboratories to verify
16 compliance with standards for firearms safety devices set forth in **Section 12088.2**.

17 (b) The Department of Justice may charge any laboratory that is seeking
18 certification to test firearms safety devices a fee not exceeding the costs of
19 certification, including costs associated with the development and approval of
20 regulations and standards pursuant to **Section 12088.2**.

21 (c) The certified laboratory shall, at the manufacturer’s or dealer’s expense, test
22 the firearms safety device and submit a copy of the final test report directly to the
23 Department of Justice along with the firearms safety device. The department shall
24 notify the manufacturer or dealer of its receipt of the final test report and the
25 department’s determination as to whether the firearms safety device tested may be
26 sold in this state.

27 (d) On and after July 1, 2001, the Department of Justice shall compile, publish,
28 and thereafter maintain a roster listing all of the firearms safety devices that have
29 been tested by a certified testing laboratory, have been determined to meet the
30 department’s standards for firearms safety devices and may be sold in this state.

31 (e) The roster shall list, for each firearms safety device, the manufacturer, model
32 number, and model name.

33 (f) The department may randomly retest samples obtained from sources other
34 than directly from the manufacturer of the firearms safety device listed on the
35 roster to ensure compliance with the requirements of **this article**.

36 (g) Firearms safety devices used for random sample testing and obtained from
37 sources other than the manufacturer shall be in new, unused condition, and still in
38 the manufacturer’s original and unopened package.

39 **Penal Code § 12088.1. Firearms safety device requirement**

40 12088.1. (a) All firearms sold or transferred in this state by a licensed firearms
41 dealer, including private transfers through a dealer, and all firearms manufactured

1 in this state, shall include or be accompanied by a firearms safety device that is
2 listed on the Department of Justice’s roster of approved firearms safety devices
3 and that is identified as appropriate for that firearm by reference to either the
4 manufacturer and model of the firearm, or to the physical characteristics of the
5 firearm that match those listed on the roster for use with the device.

6 (b) All firearms sold or transferred in this state by a licensed firearms dealer,
7 including private transfers through a dealer, and all firearms manufactured in this
8 state shall be accompanied with warning language or labels as described in Section
9 12088.3.

10 (c)(1) All long-gun safes commercially sold or transferred in this state, or
11 manufactured in this state for sale in this state, that do not meet the standards for
12 gun safes adopted pursuant to Section 12088.2 shall be accompanied by the
13 following warning:

14 “WARNING: This gun safe does not meet the safety standards for gun safes
15 specified in California Penal Code Section 12088.2. It does not satisfy the
16 requirements of Penal Code Section 12088.1, which mandates that all firearms
17 sold in California be accompanied by a firearms safety device or proof of
18 ownership, as required by law, of a gun safe that meets the Section 12088.2
19 minimum safety standards developed by the California Attorney General.”

20 (2) This warning shall be conspicuously displayed in its entirety on the principal
21 display panel of the gun safe’s package, on any descriptive materials that
22 accompany the gun safe, and on a label affixed to the front of the gun safe.

23 (3) This warning shall be displayed in both English and Spanish in conspicuous
24 and legible type in contrast by typography, layout, or color with other printed
25 matter on the package or descriptive materials in a manner consistent with Part
26 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations
27 thereto.

28 (d) The sale or transfer of a firearm shall be exempt from subdivision (a) if both
29 of the following apply:

30 (1) The purchaser or transferee owns a gun safe that meets the standards set
31 forth in Section 12088.2. Gun safes shall not be required to be tested, and
32 therefore may meet the standards without appearing on the Department of Justice
33 roster.

34 (2) The purchaser or transferee presents an original receipt for purchase of the
35 gun safe, or other proof of purchase or ownership of the gun safe as authorized by
36 the Attorney General, to the firearms dealer. The dealer shall maintain a copy of
37 this receipt or proof of purchase with the dealers’ record of sales of firearms.

38 (e) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of
39 the following apply:

40 (1) The purchaser or transferee purchases an approved safety device no more
41 than 30 days prior to the day the purchaser or transferee takes possession of the
42 firearm.

1 (2) The purchaser or transferee presents the approved safety device to the
2 firearms dealer when picking up the firearm.

3 (3) The purchaser or transferee presents an original receipt to the firearms dealer
4 which shows the date of purchase, the name, and the model number of the safety
5 device.

6 (4) The firearms dealer verifies that the requirements in (1) to (3), inclusive,
7 have been satisfied.

8 (5) The firearms dealer maintains a copy of the receipt along with the dealers'
9 record of sales of firearms.

10 **Penal Code § 12088.15. Sale, distribution, or manufacture of noncomplying or unlisted**
11 **items**

12 12088.15. (a) No person shall keep for commercial sale, offer, or expose for
13 commercial sale, or commercially sell any firearms safety device that is not listed
14 on the roster maintained pursuant to subdivision (d) of Section 12088, or that does
15 not comply with the standards for firearms safety devices adopted pursuant to
16 Section 12088.2.

17 (b) No person may distribute as part of an organized firearm safety program,
18 with or without consideration, any firearm safety device that is not listed on the
19 roster maintained pursuant to subdivision (d) of Section 12088 or does not comply
20 with the standards for firearms safety devices adopted pursuant to Section
21 12088.2.

22 (c) No long-gun safe may be manufactured in this state for sale in this state that
23 does not comply with the standards for gun safes adopted pursuant to Section
24 12088.2, unless the long-gun safe is labeled by the manufacturer consistent with
25 the requirements of Section 12088.1.

26 (d)(1) Any person who keeps for commercial sale, offers, or exposes for
27 commercial sale, or who commercially sells a long-gun safe that does not comply
28 with the standards for gun safes adopted pursuant to Section 12088.2, and who
29 knows or has reason to know, that the long-gun safe in question does not meet the
30 standards for gun safes adopted pursuant to Section 12088.2, is in violation of this
31 section, and is punishable as provided in subdivision (e), unless the long-gun safe
32 is labeled pursuant to Section 12088.1.

33 (2) Any person who keeps for commercial sale, offers, or exposes for
34 commercial sale, or who commercially sells a long-gun safe that does not comply
35 with the standards for gun safes adopted pursuant to Section 12088.2, and who
36 removes or causes to be removed from the long-gun safe, the label required
37 pursuant to Section 12088.1, is in violation of this section, and is punishable as
38 provided in subdivision (e).

39 (e) A violation of this section is punishable by a civil fine of up to five hundred
40 dollars (\$500). A second violation of this section that occurs within five years of
41 the date of a previous offense is punishable by a civil fine of up to one thousand
42 dollars (\$1,000) and, if the violation is committed by a licensed firearms dealer,

1 the dealer shall be ineligible to sell firearms in this state for 30 days. A third or
2 subsequent violation that occurs within five years of two or more previous
3 offenses is punishable by a civil fine of up to five thousand dollars (\$5,000) and, if
4 the violation is committed by a licensed firearms dealer, the firearms dealer shall
5 be permanently ineligible to sell firearms in this state.

6 (f) The Attorney General, a district attorney, or a city attorney may bring a civil
7 action for a violation of the provisions of **this section**.

8 **Penal Code § 12088.2 Minimum safety standard**

9 12088.2. (a) No later than January 1, 2000, the Attorney General shall
10 commence development of regulations to implement a minimum safety standard
11 for firearms safety devices and gun safes to significantly reduce the risk of
12 firearms-related injuries to children 17 years of age and younger. The final
13 standard shall do all of the following:

14 (1) Address the risk of injury from unintentional gunshot wounds.

15 (2) Address the risk of injury from self-inflicted gunshot wounds by
16 unauthorized users.

17 (3) Include provisions to ensure that all firearms safety devices and gun safes are
18 reusable and of adequate quality and construction to prevent children and
19 unauthorized users from firing the firearm and to ensure that these devices cannot
20 be readily removed from the firearm or that the firearm cannot be readily removed
21 from the gun safe except by an authorized user utilizing the key, combination, or
22 other method of access intended by the manufacturer of the device.

23 (4) Include additional provisions as appropriate.

24 (b) The Attorney General may consult, for the purposes of guidance in
25 development of the standards, test protocols such as those described in **Title 16**
26 **(commencing with Part 1700) of the Code of Federal Regulations**, relating to
27 poison prevention packaging standards. These protocols may be consulted to
28 provide suggestions for potential methods to utilize in developing standards and
29 shall serve as guidance only. The Attorney General shall also give appropriate
30 consideration to the use of devices that are not detachable, but are permanently
31 installed and incorporated into the design of a firearm. The Attorney General shall
32 adopt and issue regulations implementing a final standard not later than January 1,
33 2001. The Attorney General shall report to the Legislature on these standards by
34 January 1, 2001. The final standard shall be effective January 1, 2002.

35 **Penal Code § 12088.3. Warning label**

36 12088.3. (a) The packaging of any firearm and any descriptive materials that
37 accompany any firearm sold or transferred in this state, or delivered for sale in this
38 state, by any licensed manufacturer, or licensed dealer, shall bear a label
39 containing the following warning statement:

1 (b) Whether as a result of that incident the child died, suffered serious injury, or
2 was treated for an injury by a medical professional.

3 **Penal Code § 12088.6. Punishment**

4 12088.6. Any violation of Section 12088.1 or Section 12088.3 is punishable by a
5 fine of one thousand dollars (\$1,000). On the second violation of any of those
6 sections, the licensed firearm manufacturer shall be ineligible to manufacture, or
7 the licensed firearm dealer shall be ineligible to sell, firearms in this state for 30
8 days, and shall be punished by a fine of one thousand dollars (\$1,000). On the
9 third violation of any of those sections, a firearm manufacturer shall be
10 permanently ineligible to manufacture firearms in this state. On the third violation
11 of any of those sections, a licensed firearm dealer shall be permanently ineligible
12 to sell firearms in this state.

13 **Penal Code § 12088.7. Effect of compliance**

14 12088.7. Compliance with the requirements set forth in this article shall not
15 relieve any person from liability to any other person as may be imposed pursuant
16 to common law, statutory law, or local ordinance.

17 **Penal Code § 12088.8. Limitations on application of Act**

18 12088.8. (a) This article does not apply to the commerce of any firearm defined
19 as an “antique firearm” in paragraph (16) of subsection (a) of Section 921 of
20 Title 18 of the United States Code.

21 (b) This article shall not apply to the commerce of any firearm intended to be
22 used by a salaried, full-time peace officer as defined in Chapter 4.5 (commencing
23 with Section 830) of Title 3 of Part 2 for purposes of law enforcement. Nothing in
24 this article shall preclude local governments, local agencies, or state law
25 enforcement agencies from requiring their peace officers to store their firearms in
26 gun safes or attach firearms safety devices to those firearms.

27 **Penal Code § 12088.9. Fee**

28 12088.9. (a) The Department of Justice may require each dealer to charge each
29 firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm
30 transaction. The fee shall be for the purpose of supporting department program
31 costs related to this act, including the establishment, maintenance, and upgrading
32 of related data base systems and public rosters.

33 (b) There is hereby created within the General Fund the Firearm Safety Account.
34 Revenue from the fee imposed by subdivision (a) shall be deposited into the
35 Firearm Safety Account and shall be available for expenditure by the Department
36 of Justice upon appropriation by the Legislature. Expenditures from the Firearm
37 Safety Account shall be limited to program expenditures as defined by subdivision
38 (a).

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Article 5. Obliteration of Identification Marks

Penal Code § 12090. Obliteration of firearm identification marks prohibited

12090. Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer’s number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make such change, alteration or removal shall be punished by imprisonment in the state prison.

Penal Code § 12091. Presumption

 **Staff Note.** Penal Code Section 12091 was repealed by SB 1241 (Margett). See 2008 Cal. Stat. ch. 699.

Penal Code § 12092. Assignment of number or mark when firearm lacks one

12092. The Department of Justice upon request may assign a distinguishing number or mark of identification to any firearm whenever it is without a manufacturer’s number, or other mark of identification or whenever the manufacturer’s number or other mark of identification or the distinguishing number or mark assigned by the department has been destroyed or obliterated.

Penal Code § 12093. Additional number or identifying indicium

12093. Any person may place or stamp on any pistol, revolver, or other firearm any number or identifying indicium, provided the number or identifying indicium does not change, alter, remove, or obliterate the manufacturer’s name, number, model, or other mark of identification. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer’s number or other mark of identification when such restoration is authorized by the department, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer’s number, or other mark of identification upon a new firearm.

Penal Code § 12094. Possession, sale, or purchase of firearm with knowledge of obliteration of identifying number or mark

12094. (a) Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his or her possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer’s number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

(b) Subdivision (a) does not apply to any of the following:

1 (1) The acquisition or possession of a firearm described in subdivision (a) by
2 any member of the military forces of this state or of the United States, while on
3 duty and acting within the scope and course of his or her employment.

4 (2) The acquisition or possession of a firearm described in subdivision (a) by
5 any peace officer described in Chapter 4.5 (commencing with Section 830) of
6 Title 3 of Part 2, while on duty and acting within the scope and course of his or her
7 employment.

8 (3) The acquisition or possession of a firearm described in subdivision (a) by
9 any employee of a forensic laboratory, while on duty and acting within the scope
10 and course of his or her employment.

11 (4) The possession and disposition of a firearm described in subdivision (a) by a
12 person who meets all of the following:

13 (A) He or she is not prohibited from possessing, receiving, owning, or
14 purchasing a firearm.

15 (B) The person possessed the firearm no longer than was necessary to deliver
16 the same to a law enforcement agency for that agency's disposition according to
17 law.

18 (C) If the person is transporting the firearm, he or she is transporting the firearm
19 to a law enforcement agency in order to deliver the firearm to the law enforcement
20 agency for the agency's disposition according to law.

21 (D) If the person is transporting the firearm to a law enforcement agency, he or
22 she has given prior notice to the law enforcement agency that he or she is
23 transporting the firearm to that law enforcement agency for that agency's
24 disposition according to law.

25 (E) The firearm is transported in a locked container as defined in subdivision (d)
26 of Section 12026.2.

27 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
28 2008 Cal. Stat. ch. 698.

29 Article 6. Permits

30 **Penal Code § 12095. Permit for short-barreled shotgun or short-barreled rifle**

31 12095. (a) If it finds that it does not endanger the public safety, the Department
32 of Justice may issue permits initially valid for a period of one year, and renewable
33 annually thereafter, for the manufacture, possession, transportation, or sale of
34 short-barreled shotguns or short-barreled rifles upon a showing that good cause
35 exists for the issuance thereof to the applicant for the permit. No permit shall be
36 issued to a person who is under 18 years of age.

37 (b) Good cause, for the purposes of this section, shall be limited to only the
38 following:

39 (1) The permit is sought for the manufacture, possession, or use with blank
40 cartridges, of a short-barreled rifle or short-barreled shotgun, solely as props for a
41 motion picture, television, or video production or entertainment event.

1 (2) The permit is sought for the manufacture of, exposing for sale, keeping for
2 sale, sale of, importation or lending of short-barreled rifles or short-barreled
3 shotguns to the entities listed in paragraph (1) of subdivision (b) of Section 12020
4 by persons who are licensed as dealers or manufacturers under the provisions of
5 Chapter 53 (commencing with Section 5801) of Title 26 of the United States
6 Code, as amended, and the regulations issued pursuant thereto.

7 **Penal Code § 12096. Permit application process**

8 12096. Applications for permits shall be filed in writing, signed by the applicant
9 if an individual, or by a member or officer qualified to sign if the applicant is a
10 firm or corporation, and shall state the name, business in which engaged, business
11 address, and a full description of the use to which the short-barreled shotguns or
12 short-barreled rifles are to be put.

13 Applications and permits shall be uniform throughout the state on forms
14 prescribed by the Department of Justice.

15 Each applicant for a permit shall pay at the time of filing his or her application a
16 fee determined by the Department of Justice not to exceed the application
17 processing costs of the Department of Justice. A permit granted pursuant to **this**
18 **article** may be renewed one year from the date of issuance, and annually
19 thereafter, upon the filing of a renewal application and the payment of a permit
20 renewal fee not to exceed the application processing costs of the Department of
21 Justice. After the department establishes fees sufficient to reimburse the
22 department for processing costs, fees charged shall increase at a rate not to exceed
23 the legislatively approved annual cost-of-living adjustments for the department's
24 budget.

25 **Penal Code § 12097. Storage of permit and affixation of identifying number**

26 12097. (a) Every person, firm, or corporation to whom a permit is issued shall
27 keep it on his or her person or at the place where the short-barreled shotguns or
28 short-barreled rifles are kept. The permit shall be open to inspection by any peace
29 officer or any other person designated by the authority issuing the permit.

30 (b) Every short-barreled shotgun or short-barreled rifle possessed pursuant to the
31 provisions of **this article** shall bear a unique identifying number. If a weapon does
32 not bear a unique identifying number, the Department of Justice shall assign a
33 number which shall be placed or stamped on that weapon.

34 **Penal Code § 12098. Revocation of permit**

35 12098. Permits issued in accordance with **this article** may be revoked by the
36 issuing authority at any time when it appears that the need for the short-barreled
37 shotguns or short-barreled rifles has ceased or that the holder of the permit has
38 used the short-barreled shotguns or short-barreled rifles for purposes other than
39 those allowed by the permit or that the holder of the permit has not exercised great
40 care in retaining custody of any weapons possessed under the permit.

1 **Penal Code § 12099. Inspection conducted by Department of Justice**

2 12099. (a) Except as provided in subdivision (b), the Department of Justice
3 shall, for every person, firm, or corporation to whom a permit is issued pursuant to
4 this article, annually conduct an inspection for security and safe storage purposes,
5 and to reconcile the inventory of short-barreled shotguns and short-barreled rifles.

6 (b) A person, firm, or corporation with an inventory of fewer than five devices
7 that require any Department of Justice permit shall be subject to an inspection for
8 security and safe storage purposes, and to reconcile inventory, once every five
9 years, or more frequently if determined by the department.

10 Article 7. Juveniles

11 **Penal Code § 12101. Juvenile in possession of live ammunition or firearm capable of being**
12 **concealed on person**

13 12101. (a)(1) A minor shall not possess a pistol, revolver, or other firearm
14 capable of being concealed upon the person.

15 (2) Paragraph (1) shall not apply if one of the following circumstances exists:

16 (A) The minor is accompanied by his or her parent or legal guardian, and the
17 minor is actively engaged in, or is in direct transit to or from, a lawful, recreational
18 sport, including, but not limited to, competitive shooting, or agricultural, ranching,
19 or hunting activity, or a motion picture, television, or video production, or
20 entertainment or theatrical event, the nature of which involves this use of a
21 firearm.

22 (B) The minor is accompanied by a responsible adult, the minor has the prior
23 written consent of his or her parent or legal guardian, and the minor is actively
24 engaged in, or is in direct transit to or from, a lawful, recreational sport, including,
25 but not limited to, competitive shooting, or agricultural, ranching, or hunting
26 activity, or a motion picture, television, or video production, or entertainment or
27 theatrical event, the nature of which involves the use of a firearm.

28 (C) The minor is at least 16 years of age, the minor has the prior written consent
29 of his or her parent or legal guardian and the minor is actively engaged in, or is in
30 direct transit to or from, a lawful recreational sport, including, but not limited to,
31 competitive shooting, or agricultural, ranching, or hunting activity, or a motion
32 picture, television, or video production, or entertainment or theatrical event, the
33 nature of which involves the use of a firearm.

34 (D) The minor has the prior written consent of his or her parent or legal
35 guardian, the minor is on lands owned or lawfully possessed by his or her parent
36 or legal guardian, and the minor is actively engaged in, or is in direct transit to or
37 from, a lawful, recreational sport, including, but not limited to, competitive
38 shooting, or agricultural, ranching, or hunting activity, or a motion picture,
39 television, or video production, or entertainment or theatrical event, the nature of
40 which involves the use of a firearm.

41 (b)(1) A minor shall not possess live ammunition.

1 (2) Paragraph (1) shall not apply if one of the following circumstances exists:

2 (A) The minor has the written consent of his or her parent or legal guardian to
3 possess live ammunition.

4 (B) The minor is accompanied by his or her parent or legal guardian.

5 (C) The minor is actively engaged in, or is going to or from, a lawful,
6 recreational sport, including, but not limited to, competitive shooting, or
7 agricultural, ranching, or hunting activity, the nature of which involves the use of a
8 firearm.

9 (c) Every minor who violates this section shall be punished as follows:

10 (1) By imprisonment in the state prison or in a county jail if one of the following
11 applies:

12 (A) The minor has been found guilty previously of violating this section.

13 (B) The minor has been found guilty previously of an offense specified in
14 subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

15 (C) The minor has been found guilty of a violation of paragraph (1) of
16 subdivision (a).

17 (2) Violations of this section other than those violations specified in paragraph
18 (1) shall be punishable as a misdemeanor.

19 (d) In a proceeding to enforce this section brought pursuant to Article 14
20 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and
21 Institutions Code, the court may require the custodial parent or legal guardian of a
22 minor who violates this section to participate in classes on parenting education that
23 meet the requirements established in Section 16507.7 of the Welfare and
24 Institutions Code.

25 (e) As used in this section, “responsible adult” means a person at least 21 years
26 of age who is not prohibited by state or federal law from possessing, receiving,
27 owning, or purchasing a firearm.

28 (f) It is not the intent of the Legislature in enacting the amendments to this
29 section or to Section 12078 to expand or narrow the application of current
30 statutory or judicial authority as to the rights of minors to be loaned or to possess
31 live ammunition or a firearm for the purpose of self-defense or the defense of
32 others.

33  **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
34 2008 Cal. Stat. ch. 698.

35 CHAPTER 1.3. UNSAFE HANDGUNS

36 **Penal Code § 12125. Manufacture, import, sale, gift, or loan of unsafe handgun**

37 12125. (a) Commencing January 1, 2001, any person in this state who
38 manufactures or causes to be manufactured, imports into the state for sale, keeps
39 for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be
40 punished by imprisonment in a county jail not exceeding one year.

1 (b) This section shall not apply to any of the following:

2 (1) The manufacture in this state, or importation into this state, of any prototype
3 pistol, revolver, or other firearm capable of being concealed upon the person when
4 the manufacture or importation is for the sole purpose of allowing an independent
5 laboratory certified by the Department of Justice pursuant to Section 12130 to
6 conduct an independent test to determine whether that pistol, revolver, or other
7 firearm capable of being concealed upon the person is prohibited by this chapter,
8 and, if not, allowing the department to add the firearm to the roster of pistols,
9 revolvers, and other firearms capable of being concealed upon the person that may
10 be sold in this state pursuant to Section 12131.

11 (2) The importation or lending of a pistol, revolver, or other firearm capable of
12 being concealed upon the person by employees or authorized agents of entities
13 determining whether the weapon is prohibited by this section.

14 (3) Firearms listed as curios or relics, as defined in Section 478.11 of Title 27 of
15 the Code of Federal Regulations.

16 (4) The sale or purchase of any pistol, revolver or other firearm capable of being
17 concealed upon the person, if the pistol, revolver, or other firearm is sold to, or
18 purchased by, the Department of Justice, any police department, any sheriff's
19 official, any marshal's office, the Youth and Adult Correctional Agency, the
20 California Highway Patrol, any district attorney's office, or the military or naval
21 forces of this state or of the United States for use in the discharge of their official
22 duties. Nor shall anything in this section prohibit the sale to, or purchase by, sworn
23 members of these agencies of any pistol, revolver, or other firearm capable of
24 being concealed upon the person.

25 (c) Violations of subdivision (a) are cumulative with respect to each handgun
26 and shall not be construed as restricting the application of any other law. However,
27 an act or omission punishable in different ways by this section and other
28 provisions of law shall not be punished under more than one provision, but the
29 penalty to be imposed shall be determined as set forth in Section 654.

30 **Penal Code § 12126. "Unsafe handgun" and other definitions**

31 12126. As used in this chapter, "unsafe handgun" means any pistol, revolver,
32 or other firearm capable of being concealed upon the person, as defined in
33 subdivision (a) of Section 12001, for which any of the following is true:

34 (a) For a revolver:

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

39 (2) It does not meet the firing requirement for handguns pursuant to Section
40 12127.

41 (3) It does not meet the drop safety requirement for handguns pursuant to
42 Section 12128.

- 1 (b) For a pistol:
- 2 (1) It does not have a positive manually operated safety device, as determined by
3 standards relating to imported guns promulgated by the federal Bureau of Alcohol,
4 Tobacco, and Firearms.
- 5 (2) It does not meet the firing requirement for handguns pursuant to **Section**
6 **12127**.
- 7 (3) It does not meet the drop safety requirement for handguns pursuant to
8 **Section 12128**.
- 9 (4) Commencing January 1, 2006, for a center fire semiautomatic pistol that is
10 not already listed on the roster pursuant to **Section 12131**, it does not have either a
11 chamber load indicator, or a magazine disconnect mechanism.
- 12 (5) Commencing January 1, 2007, for all center fire semiautomatic pistols that
13 are not already listed on the roster pursuant to **Section 12131**, it does not have both
14 a chamber load indicator and if it has a detachable magazine, a magazine
15 disconnect mechanism.
- 16 (6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are
17 not already listed on the roster pursuant to **Section 12131**, it does not have a
18 magazine disconnect mechanism, if it has a detachable magazine.
- 19 (7) Commencing January 1, 2010, for all semiautomatic pistols that are not
20 already listed on the roster pursuant to **Section 12131**, it is not designed and
21 equipped with a microscopic array of characters that identify the make, model, and
22 serial number of the pistol, etched or otherwise imprinted in two or more places on
23 the interior surface or internal working parts of the pistol, and that are transferred
24 by imprinting on each cartridge case when the firearm is fired, provided that the
25 Department of Justice certifies that the technology used to create the imprint is
26 available to more than one manufacturer unencumbered by any patent restrictions.
27 The Attorney General may also approve a method of equal or greater reliability
28 and effectiveness in identifying the specific serial number of a firearm from spent
29 cartridge casings discharged by that firearm than that which is set forth in **this**
30 **paragraph**, to be thereafter required as otherwise set forth by **this paragraph** where
31 the Attorney General certifies that this new method is also unencumbered by any
32 patent restrictions. Approval by the Attorney General shall include notice of that
33 fact via regulations adopted by the Attorney General for purposes of implementing
34 that method for purposes of **this paragraph**. The microscopic array of characters
35 required by **this section** shall not be considered the name of the maker, model,
36 manufacturer's number, or other mark of identification, including any
37 distinguishing number or mark assigned by the Department of Justice, within the
38 meaning of **Sections 12090 and 12094**.
- 39 (c) As used in **this section**, a **“chamber load indicator”** means a device that
40 plainly indicates that a cartridge is in the firing chamber. A device satisfies this
41 definition if it is readily visible, has incorporated or adjacent explanatory text or
42 graphics, or both, and is designed and intended to indicate to a reasonably
43 foreseeable adult user of the pistol, without requiring the user to refer to a user's

1 manual or any other resource other than the pistol itself, whether a cartridge is in
2 the firing chamber.

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

7 (e) As used in this section, a **“semiautomatic pistol”** means a pistol, as defined
8 in subdivision (a) of Section 12001, the operating mode of which uses the energy
9 of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh
10 cartridge with each single pull of the trigger.

11 **Penal Code § 12127. “Firing requirement for handguns” and “malfunction”**

12 12127. (a) As used in this chapter, the **“firing requirement for handguns”**
13 means a test in which the manufacturer provides three handguns of the make and
14 model for which certification is sought to an independent testing laboratory
15 certified by the Attorney General pursuant to Section 12130. These handguns may
16 not be refined or modified in any way from those that would be made available for
17 retail sale if certification is granted. The magazines of a tested pistol shall be
18 identical to those that would be provided with the pistol to a retail customer. The
19 laboratory shall fire 600 rounds from each gun, stopping after each series of 50
20 rounds has been fired for 5 to 10 minutes to allow the weapon to cool, stopping
21 after each series of 100 rounds has been fired to tighten any loose screws and
22 clean the gun in accordance with the manufacturer’s instructions, and stopping as
23 needed to refill the empty magazine or cylinder to capacity before continuing. The
24 ammunition used shall be of the type recommended by the handgun manufacturer
25 in the user manual, or if none is recommended, any standard ammunition of the
26 correct caliber in new condition that is commercially available. A handgun shall
27 pass this test if each of the three test guns meets both of the following:

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

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

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

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

1 **Penal Code § 12128. “Drop safety requirement for handguns”**

2 12128. As used in this chapter, the “drop safety requirement for handguns”
3 means that at the conclusion of the firing requirements for handguns described in
4 Section 12127, the same certified independent testing laboratory shall subject the
5 same three handguns of the make and model for which certification is sought, to
6 the following test:

7 A primed case (no powder or projectile) shall be inserted into the chamber. For
8 pistols, the slide shall be released, allowing it to move forward under the impetus
9 of the recoil spring, and an empty magazine shall be inserted. For both pistols and
10 revolvers, the weapon shall be placed in a drop fixture capable of dropping the
11 pistol from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the largest side of a
12 slab of solid concrete having minimum dimensions of 7.5 X 15 X 15 cm (3 X 6 X
13 6 in.). The drop distance shall be measured from the lowermost portion of the
14 weapon to the top surface of the slab. The weapon shall be dropped from a fixture
15 and not from the hand. The weapon shall be dropped in the condition that it would
16 be in if it were dropped from a hand (cocked with no manual safety applied). If the
17 design of a pistol is such that upon leaving the hand a “safety” is automatically
18 applied by the pistol, this feature shall not be defeated. An approved drop fixture is
19 a short piece of string with the weapon attached at one end and the other end held
20 in an air vise until the drop is initiated.

21 The following six drops shall be performed:

22 (a) Normal firing position with barrel horizontal.

23 (b) Upside down with barrel horizontal.

24 (c) On grip with barrel vertical.

25 (d) On muzzle with barrel vertical.

26 (e) On either side with barrel horizontal.

27 (f) If there is an exposed hammer or striker, on the rearmost point of that device,
28 otherwise on the rearmost point of the weapon.

29 The primer shall be examined for indentations after each drop. If indentations
30 are present, a fresh primed case shall be used for the next drop.

31 The handgun shall pass this test if each of the three test guns does not fire the
32 primer.

33 **Penal Code § 12129. Manufacturer’s certification**

34 12129. Every person who is licensed as a manufacturer of firearms pursuant to
35 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
36 who manufactures firearms in this state, and every person who imports into the
37 state for sale, keeps for sale, or offers or exposes for sale any firearm, shall certify
38 under penalty of perjury and any other remedy provided by law that every model,
39 kind, class, style, or type of pistol, revolver, or other firearm capable of being
40 concealed upon the person that he or she manufactures or imports, keeps, or
41 exposes for sale is not an unsafe handgun as prohibited by this chapter.

1 **Penal Code § 12130. Laboratory testing**

2 12130. (a) Any pistol, revolver, or other firearm capable of being concealed
3 upon the person manufactured in this state, imported into the state for sale, kept
4 for sale, or offered or exposed for sale, shall be tested within a reasonable period
5 of time by an independent laboratory certified pursuant to subdivision (b) to
6 determine whether that pistol, revolver, or other firearm capable of being
7 concealed upon the person meets or exceeds the standards defined in Section
8 12126.

9 (b) On or before October 1, 2000, the Department of Justice shall certify
10 laboratories to verify compliance with the standards defined in Section 12126. The
11 department may charge any laboratory that is seeking certification to test any
12 pistol, revolver, or other firearm capable of being concealed upon the person
13 pursuant to this chapter a fee not exceeding the costs of certification.

14 (c) The certified testing laboratory shall, at the manufacturer's or importer's
15 expense, test the firearm and submit a copy of the final test report directly to the
16 Department of Justice along with a prototype of the weapon to be retained by the
17 department. The department shall notify the manufacturer or importer of its receipt
18 of the final test report and the department's determination as to whether the
19 firearm tested may be sold in this state.

20 (d)(1) Commencing January 1, 2006, no center-fire semiautomatic pistol may be
21 submitted for testing pursuant to this chapter if it does not have either a chamber
22 load indicator as defined in subdivision (c) of Section 12126, or a magazine
23 disconnect mechanism as defined in subdivision (d) of Section 12126 if it has a
24 detachable magazine.

25 (2) Commencing January 1, 2007, no center-fire semiautomatic pistol may be
26 submitted for testing pursuant to this chapter if it does not have both a chamber
27 load indicator as defined in subdivision (c) of Section 12126 and a magazine
28 disconnect mechanism as defined in subdivision (d) of Section 12126.

29 (3) Commencing January 1, 2006, no rimfire semiautomatic pistol may be
30 submitted for testing pursuant to this chapter if it has a detachable magazine, and
31 does not have a magazine disconnect mechanism as defined in subdivision (d) of
32 Section 12126.

33 **Penal Code § 12131. Roster prepared by Department of Justice**

34 12131. (a) On and after January 1, 2001, the Department of Justice shall
35 compile, publish, and thereafter maintain a roster listing all of the pistols,
36 revolvers, and other firearms capable of being concealed upon the person that have
37 been tested by a certified testing laboratory, have been determined not to be unsafe
38 handguns, and may be sold in this state pursuant to this title. The roster shall list,
39 for each firearm, the manufacturer, model number, and model name.

40 (b)(1) The department may charge every person in this state who is licensed as a
41 manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921)
42 of Title 18 of the United States Code, and any person in this state who

1 manufactures or causes to be manufactured, imports into the state for sale, keeps
2 for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable
3 of being concealed upon the person in this state, an annual fee not exceeding the
4 costs of preparing, publishing, and maintaining the roster pursuant to subdivision
5 (a) and the costs of research and development, report analysis, firearms storage,
6 and other program infrastructure costs necessary to implement this chapter.

7 (2) Any pistol, revolver, or other firearm capable of being concealed upon the
8 person that is manufactured by a manufacturer who manufactures or causes to be
9 manufactured, imports into the state for sale, keeps for sale, or offers or exposes
10 for sale any pistol, revolver, or other firearm capable of being concealed upon the
11 person in this state, and who fails to pay any fee required pursuant to paragraph
12 (1), may be excluded from the roster.

13 (3) If a purchaser has initiated a transfer of a handgun that is listed on the roster
14 as not unsafe, and prior to the completion of the transfer, the handgun is removed
15 from the roster of not unsafe handguns because of failure to pay the fee required to
16 keep that handgun listed on the roster, the handgun shall be deliverable to the
17 purchaser if the purchaser is not otherwise prohibited from purchasing or
18 possessing the handgun. However, if a purchaser has initiated a transfer of a
19 handgun that is listed on the roster as not unsafe, and prior to the completion of the
20 transfer, the handgun is removed from the roster pursuant to subdivision (f), the
21 handgun shall not be deliverable to the purchaser.

22 (c) The Attorney General may annually retest up to 5 percent of the handgun
23 models that are listed on the roster described in subdivision (a).

24 (d) The retesting of a handgun model pursuant to subdivision (c) shall conform
25 to the following:

26 (1) The Attorney General shall obtain from retail or wholesale sources, or both,
27 three samples of the handgun model to be retested.

28 (2) The Attorney General shall select the certified laboratory to be used for the
29 retesting.

30 (3) The ammunition used for the retesting shall be of a type recommended by
31 the manufacturer in the user manual for the handgun. If the user manual for the
32 handgun model makes no ammunition recommendation, the Attorney General
33 shall select the ammunition to be used for the retesting. The ammunition shall be
34 of the proper caliber for the handgun, commercially available, and in new
35 condition.

36 (e) The retest shall be conducted in the same manner as the testing prescribed in
37 Sections 12127 and 12128.

38 (f) If the handgun model fails retesting, the Attorney General shall remove the
39 handgun model from the roster maintained pursuant to subdivision (a).

40 (g) A handgun model removed from the roster pursuant to subdivision (f) may
41 be reinstated on the roster if all of the following are met:

42 (1) The manufacturer petitions the Attorney General for reinstatement of the
43 handgun model.

1 (2) The manufacturer pays the Department of Justice for all of the costs related
2 to the reinstatement testing of the handgun model, including the purchase price of
3 the handguns, prior to reinstatement testing.

4 (3) The reinstatement testing of the handguns shall be in accordance with
5 subdivisions (d) and (e).

6 (4) The three handgun samples shall be tested only once for reinstatement. If the
7 sample fails it may not be retested.

8 (5) If the handgun model successfully passes testing for reinstatement, and if the
9 manufacturer of the handgun is otherwise in compliance with this chapter, the
10 Attorney General shall reinstate the handgun model on the roster maintained
11 pursuant to subdivision (a).

12 (6) The manufacturer shall provide the Attorney General with the complete
13 testing history for the handgun model.

14 (7) Notwithstanding subdivision (c), the Attorney General may, at any time,
15 further retest any handgun model that has been reinstated to the roster.

16 **Penal Code § 12131.5. Firearm differing in insignificant respects from listed firearm**

17 12131.5. (a) A firearm shall be deemed to satisfy the requirements of
18 subdivision (a) of Section 12131 if another firearm made by the same
19 manufacturer is already listed and the unlisted firearm differs from the listed
20 firearm only in one or more of the following features:

21 (1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or
22 engraving.

23 (2) The material from which the grips are made.

24 (3) The shape or texture of the grips, so long as the difference in grip shape or
25 texture does not in any way alter the dimensions, material, linkage, or functioning
26 of the magazine well, the barrel, the chamber, or any of the components of the
27 firing mechanism of the firearm.

28 (4) Any other purely cosmetic feature that does not in any way alter the
29 dimensions, material, linkage, or functioning of the magazine well, the barrel, the
30 chamber, or any of the components of the firing mechanism of the firearm.

31 (b) Any manufacturer seeking to have a firearm listed under this section shall
32 provide to the Department of Justice all of the following:

33 (1) The model designation of the listed firearm.

34 (2) The model designation of each firearm that the manufacturer seeks to have
35 listed under this section.

36 (3) A statement, under oath, that each unlisted firearm for which listing is sought
37 differs from the listed firearm only in one or more of the ways identified in
38 subdivision (a) and is in all other respects identical to the listed firearm.

39 (c) The department may, in its discretion and at any time, require a manufacturer
40 to provide to the department any model for which listing is sought under this
41 section, to determine whether the model complies with the requirements of this
42 section.

1 **Penal Code § 12132. Limitations on application of laws governing unsafe handguns**

2 12132. This chapter shall not apply to any of the following:

3 (a) The sale, loan, or transfer of any firearm pursuant to Section 12082 in order
4 to comply with subdivision (d) of Section 12072.

5 (b) The sale, loan, or transfer of any firearm that is exempt from the provisions
6 of subdivision (d) of Section 12072 pursuant to any applicable exemption
7 contained in Section 12078, if the sale, loan, or transfer complies with the
8 requirements of that applicable exemption to subdivision (d) of Section 12072.

9 (c) The sale, loan, or transfer of any firearm as described in paragraph (3) of
10 subdivision (b) of Section 12125.

11 (d) The delivery of a pistol, revolver, or other firearm capable of being
12 concealed upon the person to a person licensed pursuant to Section 12071 for the
13 purposes of the service or repair of that firearm.

14 (e) The return of a pistol, revolver, or other firearm capable of being concealed
15 upon the person by a person licensed pursuant to Section 12071 to its owner where
16 that firearm was initially delivered in the circumstances set forth in subdivisions
17 (a), (d), (f) or (j).

18 (f) The delivery of a pistol, revolver, or other firearm capable of being concealed
19 upon the person to a person licensed pursuant to Section 12071 for the purpose of
20 a consignment sale or as collateral for a pawnbroker loan.

21 (g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of
22 being concealed upon the person listed as a curio or relic, as defined in Section
23 178.11 of the Code of Federal Regulations.

24 (h)(1) The Legislature finds a significant public purpose in exempting pistols
25 that are designed expressly for use in Olympic target shooting events. Therefore,
26 those pistols that are sanctioned by the International Olympic Committee and by
27 USA Shooting, the national governing body for international shooting competition
28 in the United States, and that are used for Olympic target shooting purposes at the
29 time that the act adding this subdivision is enacted, and that fall within the
30 definition of “unsafe handgun” pursuant to paragraph (3) of subdivision (b) of
31 Section 12126 shall be exempt, as provided in paragraphs (2) and (3).

32 (2) This chapter shall not apply to any of the following pistols, because they are
33 consistent with the significant public purpose expressed in paragraph (1):

34	MANUFACTURER	MODEL	CALIBER
35	ANSCHUTZ	FP	.22LR
36	BENELLI	MP90	.22LR
37	BENELLI	MP90	.32 S&W LONG
38	BENELLI	MP95	.22LR

1	BENELLI	MP95	.32 S&W LONG
2	DRULOV	FP	.22LR
3	GREEN	ELECTROARM	.22LR
4	HAMMERLI	100	.22LR
5	HAMMERLI	101	.22LR
6	HAMMERLI	102	.22LR
7	HAMMERLI	162	.22LR
8	HAMMERLI	280	.22LR
9	HAMMERLI	280	.32 S&W LONG
10	HAMMERLI	FP10	.22LR
11	HAMMERLI	MP33	.22LR
12	HAMMERLI	SP20	.22LR
13	HAMMERLI	SP20	.32 S&W LONG
14	MORINI	CM102E	.22LR
15	MORINI	22M	.22LR
16	MORINI	32M	.32 S&W LONG
17	MORINI	CM80	.22LR
18	PARDINI	GP	.22 SHORT
19	PARDINI	GPO	.22 SHORT
20	PARDINI	GP-SCHUMANN	.22 SHORT
21	PARDINI	HP	.32 S&W LONG
22	PARDINI	K22	.22LR
23	PARDINI	MP	.32 S&W LONG
24	PARDINI	PGP75	.22LR

1	PARDINI	SP	.22LR
2	PARDINI	SPE	.22LR
3	SAKO	FINMASTER	.22LR
4	STEYR	FP	.22LR
5	VOSTOK	IZH NO. 1	.22LR
6	VOSTOK	MU55	.22LR
7	VOSTOK	TOZ35	.22LR
8	WALTHER	FP	.22LR
9	WALTHER	GSP	.22LR
10	WALTHER	GSP	.32 S&W LONG
11	WALTHER	OSP	.22 SHORT
12	WALTHER	OSP-2000	.22 SHORT

13 (3) The department shall create a program that is consistent with the purpose
14 stated in paragraph (1) to exempt new models of competitive firearms from this
15 chapter. The exempt competitive firearms may be based on recommendations by
16 USA Shooting consistent with the regulations contained in the USA Shooting
17 Official Rules or may be based on the recommendation or rules of any other
18 organization that the department deems relevant.

19 (i) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely
20 as a prop during the course of a motion picture, television, or video production by
21 an authorized participant therein in the course of making that production or event
22 or by an authorized employee or agent of the entity producing that production or
23 event.

24 (j) The delivery of a pistol, revolver, or other firearm capable of being concealed
25 upon the person to a person licensed pursuant to Section 12071 where the firearm
26 is being loaned by the licensee to a consultant-evaluator.

27 (k) The delivery of a pistol, revolver, or other firearm capable of being
28 concealed upon the person by a person licensed pursuant to Section 12071 where
29 the firearm is being loaned by the licensee to a consultant-evaluator.

30 (l) The return of a pistol, revolver, or other firearm capable of being concealed
31 upon the person to a person licensed pursuant to Section 12071 where it was
32 initially delivered pursuant to subdivision (k).

1 **Penal Code § 12133. Exemption for single-action revolver meeting certain specifications**

2 12133. (a) The provisions of this chapter shall not apply to a single-action
3 revolver that has at least a 5-cartridge capacity with a barrel length of not less than
4 three inches, and meets any of the following specifications:

5 (1) Was originally manufactured prior to 1900 and is a curio or relic, as defined
6 in Section 478.11 of Title 27 of the Code of Federal Regulations.

7 (2) Has an overall length measured parallel to the barrel of at least 71/2 inches
8 when the handle, frame or receiver, and barrel are assembled.

9 (3) Has an overall length measured parallel to the barrel of at least 71/2 inches
10 when the handle, frame or receiver, and barrel are assembled and that is currently
11 approved for importation into the United States pursuant to the provisions of
12 paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States
13 Code.

14 (b) The provisions of this chapter shall not apply to a single-shot pistol with a
15 barrel length of not less than six inches and that has an overall length of at least
16 101/2 inches when the handle, frame or receiver, and barrel are assembled.

17 **CHAPTER 2. MACHINE GUNS**

18 **Article 1. General Provisions**

19 **Penal Code § 12200. “Machinegun”**

20 12200. The term “**machinegun**” as used in this chapter means any weapon
21 which shoots, is designed to shoot, or can readily be restored to shoot,
22 automatically more than one shot, without manual reloading, by a single function
23 of the trigger. The term shall also include the frame or receiver of any such
24 weapon, any part designed and intended solely and exclusively, or combination of
25 parts designed and intended, for use in converting a weapon into a machinegun,
26 and any combination of parts from which a machinegun can be assembled if such
27 parts are in the possession or under the control of a person. The term also includes
28 any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as
29 readily convertible to a machinegun under Chapter 53 (commencing with Section
30 5801) of Title 26 of the United States Code.

31 **Penal Code § 12201. Acquisition and use of machineguns by law enforcement officers**

32 12201. Nothing in this chapter shall affect or apply to any of the following:

33 (a) The sale to, purchase by, or possession of machineguns by police
34 departments, sheriffs’ offices, marshals’ offices, district attorneys’ offices, the
35 California Highway Patrol, the Department of Justice, the Department of
36 Corrections for use by the department’s Special Emergency Response Teams and
37 Law Enforcement Liaison/Investigations Unit, or the military or naval forces of
38 this state or of the United States for use in the discharge of their official duties,

1 provided, however, that any sale to these entities be transacted by a person who is
2 permitted pursuant to **Section 12230** and licensed pursuant to **Section 12250**.

3 (b) The possession of machineguns by regular, salaried, full-time peace officer
4 members of a police department, sheriff's office, marshal's office, district
5 attorney's office, the California Highway Patrol, the Department of Justice, or the
6 Department of Corrections for use by the department's Special Emergency
7 Response Teams and Law Enforcement Liaison/Investigations Unit when on duty
8 and if the use is within the scope of their duties.

9 Article 2. Unlawful Possession of Machine Guns

10 **Penal Code § 12220. Unlawful acts relating to machineguns**

11 12220. (a) Any person, firm, or corporation, who within this state possesses or
12 knowingly transports a machinegun, except as authorized by **this chapter**, is guilty
13 of a public offense and upon conviction thereof shall be punished by imprisonment
14 in the state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by
15 both such fine and imprisonment.

16 (b) Any person, firm, or corporation who within this state intentionally converts
17 a firearm into a machinegun, or who sells, or offers for sale, or knowingly
18 manufactures a machinegun, except as authorized by **this chapter**, is punishable by
19 imprisonment in the state prison for four, six, or eight years.

20 Article 3. Permits

21 **Penal Code § 12230. Permit for possession, manufacture, or transportation of machineguns**

22 12230. The Department of Justice may issue permits for the possession,
23 manufacture, and transportation or possession, manufacture, or transportation of
24 machineguns, upon a satisfactory showing that good cause exists for the issuance
25 thereof to the applicant for the permit, but no permit shall be issued to a person
26 who is under 18 years of age.

27 **Penal Code § 12231. Application and renewal process**

28 12231. Applications for permits shall be filed in writing, signed by the applicant
29 if an individual, or by a member or officer qualified to sign if the applicant is a
30 firm or corporation, and shall state the name, business in which engaged, business
31 address and a full description of the use to which the firearms are to be put.

32 Applications and permits shall be uniform throughout the state on forms
33 prescribed by the Department of Justice. Each applicant for a permit shall pay at
34 the time of filing his or her application a fee determined by the Department of
35 Justice not to exceed the application processing costs of the Department of Justice.
36 A permit granted pursuant to **this article** may be renewed one year from the date of
37 issuance, and annually thereafter, upon the filing of a renewal application and the
38 payment of a permit renewal fee not to exceed the application processing costs of

1 the Department of Justice. After the department establishes fees sufficient to
2 reimburse the department for processing costs, fees charged shall increase at a rate
3 not to exceed the legislatively approved annual cost-of-living adjustments for the
4 department's budget.

5 **Penal Code § 12232. Storage of machinegun permit**

6 12232. Every person, firm or corporation to whom a permit is issued shall keep
7 it on his person or at the place where the firearms are kept. The permit shall be
8 open to inspection by any peace officer or any other person designated by the
9 authority issuing the permit.

10 **Penal Code § 12233. Revocation of machinegun permit**

11 12233. Permits issued in accordance with **this chapter** may be revoked by the
12 issuing authority at any time when it appears that the need for the firearms has
13 ceased or that the holder of the permit has used the firearms for purposes other
14 than those allowed by the permit or that the holder of the permit has not exercised
15 great care in retaining custody of any weapons possessed under the permit.

16 **Penal Code § 12234. Inspection conducted by Department of Justice**

17 12234. (a) Except as provided in **subdivision (b)**, the Department of Justice
18 shall, for every person, firm, or corporation to whom a permit is issued pursuant to
19 **this article**, annually conduct an inspection for security and safe storage purposes,
20 and to reconcile the inventory of machine guns.

21 (b) A person, firm, or corporation with an inventory of fewer than five devices
22 that require any Department of Justice permit shall be subject to an inspection for
23 security and safe storage purposes, and to reconcile inventory, once every five
24 years, or more frequently if determined by the department.

25 Article 4. Licenses to Sell Machine Guns

26 **Penal Code § 12250. License to sell machineguns**

27 12250. (a) The Department of Justice may grant licenses in a form to be
28 prescribed by it effective for not more than one year from the date of issuance, to
29 permit the sale at the place specified in the license of machineguns subject to all of
30 the following conditions, upon breach of any of which the license shall be
31 revoked:

32 1. The business shall be carried on only in the place designated in the license.

33 2. The license or a certified copy thereof must be displayed on the premises in a
34 place where it may easily be read.

35 3. No machinegun shall be delivered to any person not authorized to receive the
36 same under the provisions of **this chapter**.

37 4. A complete record must be kept of sales made under the authority of the
38 license, showing the name and address of the purchaser, the descriptions and serial

1 numbers of the weapons purchased, the number and date of issue of the
2 purchaser's permit, if any, and the signature of the purchaser or purchasing agent.
3 This record shall be open to the inspection of any peace officer or other person
4 designated by the Attorney General.

5 (b) Applications for licenses shall be filed in writing, signed by the applicant if
6 an individual or by a member or officer qualified to sign if the applicant is a firm
7 or corporation, and shall state the name, business in which engaged, business
8 address and a full description of the use to which the firearms are to be put.

9 Applications and licenses shall be uniform throughout the state on forms
10 prescribed by the Department of Justice.

11 Each applicant for a license shall pay at the time of filing his or her application a
12 fee determined by the Department of Justice not to exceed the application
13 processing costs of the Department of Justice. A license granted pursuant to **this**
14 **article** may be renewed one year from the date of issuance, and annually
15 thereafter, upon the filing of a renewal application and the payment of a license
16 renewal fee not to exceed the application processing costs of the Department of
17 Justice. After the department establishes fees sufficient to reimburse the
18 department for processing costs, fees charged shall increase at a rate not to exceed
19 the legislatively approved annual cost-of-living adjustments for the department's
20 budget.

21 **Penal Code § 12251. Machinegun constituting public nuisance**

22 12251. It shall be a public nuisance to possess any machinegun in violation of
23 **this chapter**, and the Attorney General, any district attorney or any city attorney
24 may bring an action before the superior court to enjoin the possession of any such
25 machinegun.

26 Any such machinegun found to be in violation of **this chapter** shall be
27 surrendered to the Department of Justice, and the department shall destroy such
28 machinegun so as to render it unusable and unrepairable as a machinegun, except
29 upon the filing of a certificate with the department by a judge or district attorney
30 stating that the preservation of such machinegun is necessary to serve the ends of
31 justice.

32 CHAPTER 2.3. ROBERTI-ROOS
33 ASSAULT WEAPONS CONTROL ACT OF 1989

34 Article 1. General Provisions

35 **Penal Code § 12275. Title**

36 12275. **This chapter** shall be known as the Roberti-Roos Assault Weapons
37 Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004.

1 **Penal Code § 12275. 5. Legislative findings**

2 12275.5. (a) The Legislature hereby finds and declares that the proliferation and
3 use of assault weapons poses a threat to the health, safety, and security of all
4 citizens of this state. The Legislature has restricted the assault weapons specified
5 in **Section 12276** based upon finding that each firearm has such a high rate of fire
6 and capacity for firepower that its function as a legitimate sports or recreational
7 firearm is substantially outweighed by the danger that it can be used to kill and
8 injure human beings. It is the intent of the Legislature in enacting **this chapter** to
9 place restrictions on the use of assault weapons and to establish a registration and
10 permit procedure for their lawful sale and possession. It is not, however, the intent
11 of the Legislature by **this chapter** to place restrictions on the use of those weapons
12 which are primarily designed and intended for hunting, target practice, or other
13 legitimate sports or recreational activities.

14 (b) The Legislature hereby finds and declares that the proliferation and use of
15 .50 BMG rifles, as defined in **Section 12278**, poses a clear and present terrorist
16 threat to the health, safety, and security of all residents of, and visitors to, this
17 state, based upon findings that those firearms have such a high capacity for long
18 distance and highly destructive firepower that they pose an unacceptable risk to
19 the death and serious injury of human beings, destruction or serious damage of
20 vital public and private buildings, civilian, police and military vehicles, power
21 generation and transmission facilities, petrochemical production and storage
22 facilities, and transportation infrastructure. It is the intent of the Legislature in
23 enacting **this chapter** to place restrictions on the use of these rifles and to establish
24 a registration and permit procedure for their lawful sale and possession.

25 **Penal Code § 12276. “Assault weapon” and “series”**

26 12276. As used in **this chapter**, **“assault weapon”** shall mean the following
27 designated semiautomatic firearms:

28 (a) All of the following specified rifles:

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

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

32 (B) Norinco 56, 56S, 84S, and 86S.

33 (C) Poly Technologies AKS and AK47.

34 (D) MAADI AK47 and ARM.

35 (2) UZI and Galil.

36 (3) Beretta AR-70.

37 (4) CETME Sporter.

38 (5) Colt AR-15 series.

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

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

41 (8) MAS 223.

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

- 1 (10) The following MAC types:
2 (A) RPB Industries Inc. sM10 and sM11.
3 (B) SWD Incorporated M11.
4 (11) SKS with detachable magazine.
5 (12) SIG AMT, PE-57, SG 550, and SG 551.
6 (13) Springfield Armory BM59 and SAR-48.
7 (14) Sterling MK-6.
8 (15) Steyer AUG.
9 (16) Valmet M62S, M71S, and M78S.
10 (17) Armalite AR-180.
11 (18) Bushmaster Assault Rifle.
12 (19) Calico M-900.
13 (20) J&R ENG M-68.
14 (21) Weaver Arms Nighthawk.
15 (b) All of the following specified pistols:
16 (1) UZI.
17 (2) Encom MP-9 and MP-45.
18 (3) The following MAC types:
19 (A) RPB Industries Inc. sM10 and sM11.
20 (B) SWD Incorporated M-11.
21 (C) Advance Armament Inc. M-11.
22 (D) Military Armament Corp. Ingram M-11.
23 (4) Intratec TEC-9.
24 (5) Sites Spectre.
25 (6) Sterling MK-7.
26 (7) Calico M-950.
27 (8) Bushmaster Pistol.
28 (c) All of the following specified shotguns:
29 (1) Franchi SPAS 12 and LAW 12.
30 (2) Striker 12.
31 (3) The Streetsweeper type S/S Inc. SS/12.
32 (d) Any firearm declared by the court pursuant to **Section 12276.5** to be an
33 assault weapon that is specified as an assault weapon in a list promulgated
34 pursuant to **Section 12276.5**.
35 (e) The term “**series**” includes all other models that are only variations, with
36 minor differences, of those models listed in **subdivision (a)**, regardless of the
37 manufacturer.
38 (f) **This section** is declaratory of existing law, as amended, and a clarification of
39 the law and the Legislature’s intent which bans the weapons enumerated in **this**
40 **section**, the weapons included in the list promulgated by the Attorney General
41 pursuant to **Section 12276.5**, and any other models which are only variations of
42 those weapons with minor differences, regardless of the manufacturer. The
43 Legislature has defined assault weapons as the types, series, and models listed in

1 **this section** because it was the most effective way to identify and restrict a specific
2 class of semiautomatic weapons.

3 **Penal Code § 12276.1. Further clarification of “assault weapon”**

4 12276.1. (a) Notwithstanding **Section 12276**, “**assault weapon**” shall also mean
5 any of the following:

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

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

9 (B) A thumbhole stock.

10 (C) A folding or telescoping stock.

11 (D) A grenade launcher or flare launcher.

12 (E) A flash suppressor.

13 (F) A forward pistol grip.

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

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

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

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

22 (B) A second handgrip.

23 (C) A shroud that is attached to, or partially or completely encircles, the barrel
24 that allows the bearer to fire the weapon without burning his or her hand, except a
25 slide that encloses the barrel.

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

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

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

31 (A) A folding or telescoping stock.

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

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

36 (8) Any shotgun with a revolving cylinder.

37 (b) The Legislature finds a significant public purpose in exempting pistols that
38 are designed expressly for use in Olympic target shooting events. Therefore, those
39 pistols that are sanctioned by the International Olympic Committee and by USA
40 Shooting, the national governing body for international shooting competition in
41 the United States, and that are used for Olympic target shooting purposes at the
42 time the act adding **this subdivision** is enacted, and that would otherwise fall

1 within the definition of “assault weapon” pursuant to this section are exempt, as
2 provided in subdivision (c).

3 (c) “Assault weapon” does not include either of the following:

4 (1) Any antique firearm.

5 (2) Any of the following pistols, because they are consistent with
6 the significant public purpose expressed in subdivision (b):

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

26 (3) The Department of Justice shall create a program that is consistent with the
27 purposes stated in subdivision (b) to exempt new models of competitive pistols

1 that would otherwise fall within the definition of “**assault weapon**” pursuant to
2 **this section** from being classified as an assault weapon. The exempt competitive
3 pistols may be based on recommendations by USA Shooting consistent with the
4 regulations contained in the USA Shooting Official Rules or may be based on the
5 recommendation or rules of any other organization that the department deems
6 relevant.

7 (d) The following definitions shall apply under **this section**:

8 (1) “**Magazine**” shall mean any ammunition feeding device.

9 (2) “**Capacity to accept more than 10 rounds**” shall mean capable of
10 accommodating more than 10 rounds, but shall not be construed to include a
11 feeding device that has been permanently altered so that it cannot accommodate
12 more than 10 rounds.

13 (3) “**Antique firearm**” means any firearm manufactured prior to January 1,
14 1899.

15 (e) **This section** shall become operative January 1, 2000.

16 **Penal Code § 12276.5. Duties of Attorney General**

17 12276.5. (a) The Attorney General shall prepare a description for identification
18 purposes, including a picture or diagram, of each assault weapon listed in **Section**
19 **12276**, and any firearm declared to be an assault weapon pursuant to **this section**,
20 and shall distribute the description to all law enforcement agencies responsible for
21 enforcement of **this chapter**. Those law enforcement agencies shall make the
22 description available to all agency personnel.

23 (b)(1) Until January 1, 2007, the Attorney General shall promulgate a list that
24 specifies all firearms designated as assault weapons in **Section 12276** or declared
25 to be assault weapons pursuant to **this section**. The Attorney General shall file that
26 list with the Secretary of State for publication in the California Code of
27 Regulations. Any declaration that a specified firearm is an assault weapon shall be
28 implemented by the Attorney General who, within 90 days, shall promulgate an
29 amended list which shall include the specified firearm declared to be an assault
30 weapon. The Attorney General shall file the amended list with the Secretary of
31 State for publication in the California Code of Regulations. Any firearm declared
32 to be an assault weapon prior to January 1, 2007, shall remain on the list filed with
33 the Secretary of State.

34 (2) **Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the**
35 **Government Code**, pertaining to the adoption of rules and regulations, shall not
36 apply to any list of assault weapons promulgated pursuant to **this section**.

37 (c) The Attorney General shall adopt those rules and regulations that may be
38 necessary or proper to carry out the purposes and intent of **this chapter**.

1 **Penal Code § 12277. “Person”**

2 12277. As used in this chapter, “**person**” means an individual, partnership,
3 corporation, limited liability company, association, or any other group or entity,
4 regardless of how it was created.

5 **Penal Code § 12278. .50 BMG rifle and .50 BMG cartridge**

6 12278. (a) As used in this chapter, a “**.50 BMG rifle**” means a center fire rifle
7 that can fire a .50 BMG cartridge and is not already an assault weapon pursuant to
8 Section 12276, 12276.1, or 12276.5, or a machinegun, as defined in Section
9 12200.

10 (b) As used in this chapter, a “**.50 BMG cartridge**” means a cartridge that is
11 designed and intended to be fired from a center fire rifle and that meets all of the
12 following criteria:

13 (1) It has an overall length of 5.54 inches from the base to the tip of the bullet.

14 (2) The bullet diameter for the cartridge is from .510 to, and including, .511
15 inch.

16 (3) The case base diameter for the cartridge is from .800 inch to, and including,
17 .804 inch.

18 (4) The cartridge case length is 3.91 inches.

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

22 (d) As used in this section, “**antique firearm**” means any firearm manufactured
23 prior to January 1, 1899.

24 **Article 2. Unlawful Activities**

25 **Penal Code § 12280. Unlawful acts relating to assault weapons and .50 BMG rifles**

26 12280. (a)(1) Any person who, within this state, manufactures or causes to be
27 manufactured, distributes, transports, or imports into the state, keeps for sale, or
28 offers or exposes for sale, or who gives or lends any assault weapon or any .50
29 BMG rifle, except as provided by this chapter, is guilty of a felony, and upon
30 conviction shall be punished by imprisonment in the state prison for four, six, or
31 eight years.

32 (2) In addition and consecutive to the punishment imposed under paragraph (1),
33 any person who transfers, lends, sells, or gives any assault weapon or any .50
34 BMG rifle to a minor in violation of paragraph (1) shall receive an enhancement of
35 one year.

36 (3) Except in the case of a first violation involving not more than two firearms
37 as provided in subdivisions (b) and (c), for purposes of this section, if more than
38 one assault weapon or .50 BMG rifle is involved in any violation of this section,
39 there shall be a distinct and separate offense for each.

1 (b) Any person who, within this state, possesses any assault weapon, except as
2 provided in this chapter, shall be punished by imprisonment in a county jail for a
3 period not exceeding one year, or by imprisonment in the state prison. However, a
4 first violation of these provisions is punishable by a fine not exceeding five
5 hundred dollars (\$500) if the person was found in possession of no more than two
6 firearms in compliance with subdivision (c) of Section 12285 and the person meets
7 all of the following conditions:

8 (1) The person proves that he or she lawfully possessed the assault weapon prior
9 to the date it was defined as an assault weapon pursuant to Section 12276,
10 12276.1, or 12276.5.

11 (2) The person has not previously been convicted of a violation of this section.

12 (3) The person was found to be in possession of the assault weapon within one
13 year following the end of the one-year registration period established pursuant to
14 subdivision (a) of Section 12285.

15 (4) The person relinquished the firearm pursuant to Section 12288, in which
16 case the assault weapon shall be destroyed pursuant to Section 12028.

17 (c) Any person who, within this state, possesses any .50 BMG rifle, except as
18 provided in this chapter, shall be punished by a fine of one thousand dollars
19 (\$1,000), imprisonment in a county jail for a period not to exceed one year, or by
20 both that fine and imprisonment. However, a first violation of these provisions is
21 punishable by a fine not exceeding five hundred dollars (\$500) if the person was
22 found in possession of no more than two firearms in compliance with subdivision
23 (a) of Section 12285 and the person meets the conditions set forth in paragraphs
24 (1), (2), and (3):

25 (1) The person proves that he or she lawfully possessed the .50 BMG rifle prior
26 to January 1, 2005.

27 (2) The person has not previously been convicted of a violation of this section.

28 (3) The person was found to be in possession of the .50 BMG rifle within one
29 year following the end of the .50 BMG rifle registration period established
30 pursuant to subdivision (a) of Section 12285.

31 (4) Firearms seized pursuant to this subdivision from persons who meet all of
32 the conditions set forth in paragraphs (1), (2), and (3) shall be returned unless the
33 court finds in the interest of public safety, after notice and hearing, that the .50
34 BMG rifle should be destroyed pursuant to Section 12028. Firearms seized from
35 persons who do not meet the conditions set forth in paragraphs (1), (2), and (3)
36 shall be destroyed pursuant to Section 12028.

37 (d) Notwithstanding Section 654 or any other provision of law, any person who
38 commits another crime while violating this section may receive an additional,
39 consecutive punishment of one year for violating this section in addition and
40 consecutive to the punishment, including enhancements, which is prescribed for
41 the other crime.

42 (e) Subdivisions (a), (b), and (c) shall not apply to the sale to, purchase by,
43 importation of, or possession of assault weapons or a .50 BMG rifle by the

1 Department of Justice, police departments, sheriffs' offices, marshals' offices, the
2 Department of Corrections and Rehabilitation, the Department of the California
3 Highway Patrol, district attorneys' offices, Department of Fish and Game,
4 Department of Parks and Recreation, or the military or naval forces of this state or
5 of the United States, or any federal law enforcement agency for use in the
6 discharge of their official duties.

7 (f)(1) Subdivisions (b) and (c) shall not prohibit the possession or use of assault
8 weapons or a .50 BMG rifle by sworn peace officer members of those agencies
9 specified in subdivision (e) for law enforcement purposes, whether on or off duty.

10 (2) Subdivisions (a), (b), and (c) shall not prohibit the delivery, transfer, or sale
11 of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon
12 or a .50 BMG rifle by, a sworn peace officer member of an agency specified in
13 subdivision (e) if the peace officer is authorized by his or her employer to possess
14 or receive the assault weapon or the .50 BMG rifle. Required authorization is
15 defined as verifiable written certification from the head of the agency, identifying
16 the recipient or possessor of the assault weapon as a peace officer and authorizing
17 him or her to receive or possess the specific assault weapon. For this exemption to
18 apply, in the case of a peace officer who possesses or receives the assault weapon
19 prior to January 1, 2002, the officer shall register the assault weapon pursuant to
20 Section 12285 on or before April 1, 2002, and in the case of a peace officer who
21 possesses or receives the assault weapon on or after January 1, 2002, the officer
22 shall register the assault weapon pursuant to Section 12285 not later than 90 days
23 after possession or receipt. In the case of a peace officer who possesses or receives
24 a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50
25 BMG rifle on or before April 30, 2006. In the case of a peace officer who
26 possesses or receives a .50 BMG rifle after January 1, 2005, the officer shall
27 register the .50 BMG rifle not later than one year after possession or receipt.

28 The peace officer must include with the registration, a copy of the authorization
29 required pursuant to this paragraph.

30 (3) Nothing in this section shall be construed to limit or prohibit the delivery,
31 transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an
32 assault weapon or a .50 BMG rifle by, a member of a federal law enforcement
33 agency provided that person is authorized by the employing agency to possess the
34 assault weapon or .50 BMG rifle.

35 (g) Subdivision (b) shall not apply to the possession of an assault weapon during
36 the 90-day period immediately after the date it was specified as an assault weapon
37 pursuant to Section 12276.5, or during the one-year period after the date it was
38 defined as an assault weapon pursuant to Section 12276.1, if all of the following
39 are applicable:

40 (1) The person is eligible under this chapter to register the particular assault
41 weapon.

1 (2) The person lawfully possessed the particular assault weapon prior to the date
2 it was specified as an assault weapon pursuant to Section 12276.5, or prior to the
3 date it was defined as an assault weapon pursuant to Section 12276.1.

4 (3) The person is otherwise in compliance with this chapter.

5 (h) Subdivisions (a), (b), and (c) shall not apply to the manufacture by persons
6 who are issued permits pursuant to Section 12287 of assault weapons or .50 BMG
7 rifles for sale to the following:

8 (1) Exempt entities listed in subdivision (e).

9 (2) Entities and persons who have been issued permits pursuant to Section
10 12286 or 12287.

11 (3) Entities outside the state who have, in effect, a federal firearms dealer's
12 license solely for the purpose of distribution to an entity listed in paragraphs (4) to
13 (6), inclusive.

14 (4) Federal military and law enforcement agencies.

15 (5) Law enforcement and military agencies of other states.

16 (6) Foreign governments and agencies approved by the United States State
17 Department.

18 (i) Subdivision (a) shall not apply to a person who is the executor or
19 administrator of an estate that includes an assault weapon or a .50 BMG rifle
20 registered under Section 12285 or that was possessed pursuant to paragraph (1) of
21 subdivision (f) that is disposed of as authorized by the probate court, if the
22 disposition is otherwise permitted by this chapter.

23 (j) Subdivisions (b) and (c) shall not apply to a person who is the executor or
24 administrator of an estate that includes an assault weapon or a .50 BMG rifle
25 registered under Section 12285 or that was possessed pursuant to paragraph (1) of
26 subdivision (f) if the assault weapon or .50 BMG rifle is possessed at a place set
27 forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the
28 probate court.

29 (k) Subdivision (a) shall not apply to either of the following:

30 (1) A person who lawfully possesses and has registered an assault weapon or .50
31 BMG rifle pursuant to this chapter who lends that assault weapon or .50 BMG
32 rifle to another if all the following apply:

33 (A) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years
34 of age or over and is not prohibited by state or federal law from possessing,
35 receiving, owning, or purchasing a firearm.

36 (B) The person to whom the assault weapon or .50 BMG rifle is lent remains in
37 the presence of the registered possessor of the assault weapon or .50 BMG rifle.

38 (C) The assault weapon or .50 BMG rifle is possessed at any of the following
39 locations:

40 (i) While on a target range that holds a regulatory or business license for the
41 purpose of practicing shooting at that target range.

42 (ii) While on the premises of a target range of a public or private club or
43 organization organized for the purpose of practicing shooting at targets.

1 (iii) While attending any exhibition, display, or educational project that is about
2 firearms and that is sponsored by, conducted under the auspices of, or approved by
3 a law enforcement agency or a nationally or state recognized entity that fosters
4 proficiency in, or promotes education about, firearms.

5 (2) The return of an assault weapon or .50 BMG rifle to the registered possessor,
6 or the lawful possessor, which is lent by the same pursuant to paragraph (1).

7 (l) Subdivisions (b) and (c) shall not apply to the possession of an assault
8 weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG
9 rifle is lent pursuant to subdivision (k).

10 (m) Subdivisions (a), (b), and (c) shall not apply to the possession and
11 importation of an assault weapon or a .50 BMG rifle into this state by a
12 nonresident if all of the following conditions are met:

13 (1) The person is attending or going directly to or coming directly from an
14 organized competitive match or league competition that involves the use of an
15 assault weapon or a .50 BMG rifle.

16 (2) The competition or match is conducted on the premises of one of the
17 following:

18 (A) A target range that holds a regulatory or business license for the purpose of
19 practicing shooting at that target range.

20 (B) A target range of a public or private club or organization that is organized
21 for the purpose of practicing shooting at targets.

22 (3) The match or competition is sponsored by, conducted under the auspices of,
23 or approved by, a law enforcement agency or a nationally or state recognized
24 entity that fosters proficiency in, or promotes education about, firearms.

25 (4) The assault weapon or .50 BMG rifle is transported in accordance with
26 Section 12026.1 or 12026.2.

27 (5) The person is 18 years of age or over and is not in a class of persons
28 prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this
29 code or Section 8100 or 8103 of the Welfare and Institutions Code.

30 (n) Subdivisions (b) and (c) shall not apply to any of the following persons:

31 (1) A person acting in accordance with Section 12286 or 12287.

32 (2) A person who has a permit to possess an assault weapon or a .50 BMG rifle
33 issued pursuant to Section 12286 or 12287 when he or she is acting in accordance
34 with Section 12285, 12286, or 12287.

35 (o) Subdivisions (a), (b), and (c) shall not apply to any of the following persons:

36 (1) A person acting in accordance with Section 12285.

37 (2) A person acting in accordance with Section 12286, 12287, or 12290.

38 (p) Subdivisions (b) and (c) shall not apply to the registered owner of an assault
39 weapon or a .50 BMG rifle possessing that firearm in accordance with subdivision
40 (c) of Section 12285.

41 (q) Subdivision (a) shall not apply to the importation into this state of an assault
42 weapon or a .50 BMG rifle by the registered owner of that assault weapon or a .50

1 BMG rifle if it is in accordance with the provisions of subdivision (c) of Section
2 12285.

3 (r) Subdivision (a) shall not apply during the first 180 days of the 2005 calendar
4 year to the importation into this state of a .50 BMG rifle by a person who lawfully
5 possessed that .50 BMG rifle in this state prior to January 1, 2005.

6 (s) Subdivision (c) shall not apply to the possession of a .50 BMG rifle that is
7 not defined or specified as an assault weapon pursuant to this chapter, by any
8 person prior to May 1, 2006, if all of the following are applicable:

9 (1) The person is eligible under this chapter to register that .50 BMG rifle.

10 (2) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

11 (3) The person is otherwise in compliance with this chapter.

12 (t) Subdivisions (a), (b), and (c) shall not apply to the sale of assault weapons or
13 .50 BMG rifles by persons who are issued permits pursuant to Section 12287 to
14 any of the following:

15 (1) Exempt entities listed in subdivision (e).

16 (2) Entities and persons who have been issued permits pursuant to Section
17 12286 or 12287.

18 (3) Federal military and law enforcement agencies.

19 (4) Law enforcement and military agencies of other states.

20 (5) Foreign governments and agencies approved by the United States State
21 Department.

22 (6) Officers described in subdivision (f) who are authorized to possess assault
23 weapons or .50 BMG rifles pursuant to subdivision (f).

24 (u) As used in this chapter, the date a firearm is an assault weapon is the earliest
25 of the following:

26 (1) The effective date of an amendment to Section 12276 that adds the
27 designation of the specified firearm.

28 (2) The effective date of the list promulgated pursuant to Section 12276.5 that
29 adds or changes the designation of the specified firearm.

30 (3) The operative date of Section 12276.1, as specified in subdivision (d) of that
31 section.

32  **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
33 2008 Cal. Stat. ch. 698.

34 **Penal Code § 12281. Immunity and relinquishment of SKS rifles**

35 12281. (a) Any person who, or firm, company, or corporation that, operated a
36 retail or other commercial firm, company, or corporation, and manufactured,
37 distributed, transported, imported, possessed, possessed for sale, offered for sale,
38 or transferred, for commercial purpose, an SKS rifle in California between January
39 1, 1992, and December 19, 1997, shall be immune from criminal prosecution
40 under Section 12280. The immunity provided in this subdivision shall apply
41 retroactively to any person who, or firm, company, or corporation that, is or was
42 charged by complaint or indictment with a violation of Section 12280 for conduct

1 related to an SKS rifle, whether or not the case of that person, firm, company, or
2 corporation is final.

3 (b) Any person who possessed, gave, loaned, or transferred an SKS rifle in
4 California between January 1, 1992, and December 19, 1997, shall be immune
5 from criminal prosecution under Section 12280. The immunity provided in this
6 subdivision shall apply retroactively to any person who was charged by complaint
7 or indictment with a violation of Section 12280 for conduct related to an SKS
8 rifle, whether or not the case of that person is final.

9 (c) Any SKS rifle in the possession of any person who, or firm, company, or
10 corporation that, is described in subdivision (a) or (b), shall not be subject to
11 seizure by law enforcement for violation of Section 12280 prior to January 1,
12 2000.

13 (d) Any person, firm, company, or corporation, convicted under Section 12280
14 for conduct relating to an SKS rifle, shall be permitted to withdraw his or her plea
15 of guilty or nolo contendere, or to reopen his or her case and assert the immunities
16 provided in this section, if the court determines that the allowance of the immunity
17 is in the interests of justice. The court shall interpret this section liberally to the
18 benefit of the defendant.

19 (e) The Department of Justice shall notify all district attorneys on or before
20 January 31, 1999, of the provisions of this section. The department shall identify
21 all criminal prosecutions in the state for conduct related to SKS rifles within 90
22 days of the effective date of this section. In all cases so identified by the Attorney
23 General, the district attorneys shall inform defense counsel, or the defendant if the
24 defendant is in propria persona, in writing, of the provisions of this section within
25 120 days of the effective date of this section.

26 (f)(1) Any person, firm, company, or corporation that is in possession of an SKS
27 rifle shall do one of the following on or before January 1, 2000:

28 (A) Relinquish the SKS rifle to the Department of Justice pursuant to
29 subdivision (h).

30 (B) Relinquish the SKS rifle to a law enforcement agency pursuant to Section
31 12288.

32 (C) Dispose of the SKS rifle as permitted by Section 12285.

33 (2) Any person who has obtained title to an SKS rifle by bequest or intestate
34 succession shall be required to comply with subparagraph (A) or (B) of paragraph
35 (1) of this subdivision unless he or she otherwise complies with paragraph (1) of
36 subdivision (b) of Section 12285.

37 (3) Any SKS rifle relinquished to the department pursuant to this subdivision
38 shall be in a manner prescribed by the department.

39 (4) The department shall conduct a public education and notification program as
40 described in Section 12289, commencing no later than January 1, 1999.

41 (g) Any person who complies with subdivision (f) shall be exempt from the
42 prohibitions set forth in subdivision (a) or (b) of Section 12280 for those acts by
43 that person associated with complying with the requirements of subdivision (f).

1 (h)(1) The department shall purchase any SKS rifle relinquished pursuant to
2 subdivision (f) from funds appropriated for this purpose by the act amending this
3 section in the 1997-98 Regular Session of the Legislature or by subsequent budget
4 acts or other legislation. The department shall adopt regulations for this purchase
5 program that include, but are not limited to, the manner of delivery, the
6 reimbursement to be paid, and the manner in which persons shall be informed of
7 the state purchase program.

8 (2) Any person who relinquished possession of an SKS rifle to a law
9 enforcement agency pursuant to Section 12288 prior to the effective date of the
10 purchase program set forth in paragraph (1) shall be eligible to be reimbursed from
11 the purchase program. The procedures for reimbursement pursuant to this
12 paragraph shall be part of the regulations adopted by the department pursuant to
13 paragraph (1).

14 (i) Notwithstanding paragraph (11) of subdivision (a) of Section 12276, an
15 “SKS rifle” under this section means all SKS rifles commonly referred to as
16 “SKS Sporter” versions, manufactured to accept a detachable AK-47 magazine
17 and imported into this state and sold by a licensed gun dealer, or otherwise
18 lawfully possessed in this state by a resident of this state who is not a licensed gun
19 dealer, between January 1, 1992, and December 19, 1997.

20 (j) Failure to comply with subdivision (f) is a public offense punishable by
21 imprisonment in the state prison, or in a county jail, not exceeding one year.

22 (k) In addition to the regulations required pursuant to subdivision (h),
23 emergency regulations for the purchase program described in subdivision (h) shall
24 be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of
25 Division 3 of Title 2 of the Government Code.

26 **Penal Code § 12282. Assault weapon or .50 BMG rifle constituting nuisance**

27 12282. (a) Except as provided in Section 12280, possession of any assault
28 weapon, as defined in Section 12276, 12276.1, or 12276.5, or of any .50 BMG
29 rifle, as defined in Section 12278, in violation of this chapter is a public nuisance,
30 solely for purposes of this section and subdivision (d) of Section 12028. The
31 Attorney General, any district attorney, or any city attorney, may, in lieu of
32 criminal prosecution, bring a civil action or reach a civil compromise in any
33 superior court to enjoin the possession of the assault weapon or .50 BMG rifle that
34 is a public nuisance.

35 (b) Upon motion of the Attorney General, district attorney, or city attorney, a
36 superior court may impose a civil fine not to exceed three hundred dollars (\$300)
37 for the first assault weapon or .50 BMG rifle deemed a public nuisance pursuant to
38 subdivision (a) and up to one hundred dollars (\$100) for each additional assault
39 weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a).

40 (c) Any assault weapon or .50 BMG rifle deemed a public nuisance under
41 subdivision (a) shall be destroyed in a manner so that it may no longer be used,
42 except upon a finding by a court, or a declaration from the Department of Justice,

1 district attorney, or city attorney stating that the preservation of the assault weapon
2 or .50 BMG rifle is in the interest of justice.

3 (d) Upon conviction of any misdemeanor or felony involving the illegal
4 possession or use of an assault weapon, the assault weapon shall be deemed a
5 public nuisance and disposed of pursuant to subdivision (d) of Section 12028.

6 Article 3. Registration and Permits

7 Penal Code § 12285. Registration and permits

8 12285. (a)(1) Any person who lawfully possesses an assault weapon, as defined
9 in Section 12276, prior to June 1, 1989, shall register the firearm by January 1,
10 1991, and any person who lawfully possessed an assault weapon prior to the date
11 it was specified as an assault weapon pursuant to Section 12276.5 shall register the
12 firearm within 90 days with the Department of Justice pursuant to those
13 procedures that the department may establish. Except as provided in subdivision
14 (a) of Section 12280, any person who lawfully possessed an assault weapon prior
15 to the date it was defined as an assault weapon pursuant to Section 12276.1, and
16 which was not specified as an assault weapon under Section 12276 or 12276.5,
17 shall register the firearm within one year of the effective date of Section 12276.1,
18 with the department pursuant to those procedures that the department may
19 establish. The registration shall contain a description of the firearm that identifies
20 it uniquely, including all identification marks, the full name, address, date of birth,
21 and thumbprint of the owner, and any other information that the department may
22 deem appropriate. The department may charge a fee for registration of up to
23 twenty dollars (\$20) per person but not to exceed the actual processing costs of the
24 department. After the department establishes fees sufficient to reimburse the
25 department for processing costs, fees charged shall increase at a rate not to exceed
26 the legislatively approved annual cost-of-living adjustment for the department's
27 budget or as otherwise increased through the Budget Act. The fees shall be
28 deposited into the Dealers' Record of Sale Special Account.

29 (2) Except as provided in subdivision (a) of Section 12280, any person who
30 lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified
31 as an assault weapon under Section 12276 or 12276.5 or defined as an assault
32 weapon pursuant to Section 12276.1, shall register the .50 BMG rifle with the
33 department no later than April 30, 2006, pursuant to those procedures that the
34 department may establish. The registration shall contain a description of the
35 firearm that identifies it uniquely, including all identification marks, the full name,
36 address, date of birth, and thumbprint of the owner, and any other information that
37 the department may deem appropriate. The department may charge a fee for
38 registration of twenty-five dollars (\$25) per person to cover the actual processing
39 and public education campaign costs of the department. The fees shall be
40 deposited into the Dealers' Record of Sale Special Account. Data-processing costs
41 associated with modifying the department's data system to accommodate .50

1 caliber BMG rifles shall not be paid from the Dealers Record of Sale Special
2 Account.

3 (b)(1) Except as provided in paragraph (2), no assault weapon possessed
4 pursuant to this section may be sold or transferred on or after January 1, 1990, to
5 anyone within this state other than to a licensed gun dealer, as defined in
6 subdivision (c) of Section 12290, or as provided in Section 12288. Any person
7 who (A) obtains title to an assault weapon registered under this section or that was
8 possessed pursuant to paragraph (1) of subdivision (f) of Section 12280 by bequest
9 or intestate succession, or (B) lawfully possessed a firearm subsequently declared
10 to be an assault weapon pursuant to Section 12276.5, or subsequently defined as
11 an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the
12 weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a
13 permit from the Department of Justice in the same manner as specified in Article 3
14 (commencing with Section 12230) of Chapter 2, or remove the weapon from this
15 state. A person who lawfully possessed a firearm that was subsequently declared
16 to be an assault weapon pursuant to Section 12276.5 may alternatively register the
17 firearm within 90 days of the declaration issued pursuant to subdivision (f) of
18 Section 12276.5.

19 (2) A person moving into this state, otherwise in lawful possession of an assault
20 weapon, shall do one of the following:

21 (A) Prior to bringing the assault weapon into this state, that person shall first
22 obtain a permit from the Department of Justice in the same manner as specified in
23 Article 3 (commencing with Section 12230) of Chapter 2.

24 (B) The person shall cause the assault weapon to be delivered to a licensed gun
25 dealer, as defined in subdivision (c) of Section 12290, in this state in accordance
26 with Chapter 44 (commencing with Section 921) of Title 18 of the United States
27 Code and the regulations issued pursuant thereto. If the person obtains a permit
28 from the Department of Justice in the same manner as specified in Article 3
29 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that
30 assault weapon to the person. If the licensed gun dealer, as defined in subdivision
31 (c) of Section 12290, is prohibited from delivering the assault weapon to a person
32 pursuant to this paragraph, the dealer shall possess or dispose of the assault
33 weapon as allowed by this chapter.

34 (3) Except as provided in paragraph (4), no .50 BMG rifle possessed pursuant to
35 this section may be sold or transferred on or after January 1, 2005, to anyone
36 within this state other than to a licensed gun dealer, as defined in subdivision (c) of
37 Section 12290, or as provided in Section 12288. Any person who obtains title to a
38 .50 BMG rifle registered under this section or that was possessed pursuant to
39 paragraph (1) of subdivision (f) of Section 12280 by bequest or intestate
40 succession shall, within 180 days of receipt, render the weapon permanently
41 inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the
42 Department of Justice in the same manner as specified in Article 3 (commencing
43 with Section 12230) of Chapter 2, or remove the weapon from this state.

1 (4) A person moving into this state, otherwise in lawful possession of a .50
2 BMG rifle, shall do one of the following:

3 (A) Prior to bringing the .50 BMG rifle into this state, that person shall first
4 obtain a permit from the Department of Justice in the same manner as specified in
5 Article 3 (commencing with Section 12230) of Chapter 2.

6 (B) The person shall cause the .50 BMG rifle to be delivered to a licensed gun
7 dealer, as defined in subdivision (c) of Section 12290 in this state in accordance
8 with Chapter 44 (commencing with Section 921) of Title 18 of the United States
9 Code and the regulations issued pursuant thereto. If the person obtains a permit
10 from the Department of Justice in the same manner as specified in Article 3
11 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that .50
12 BMG rifle to the person. If the licensed gun dealer, as defined in subdivision (c) of
13 Section 12290 is prohibited from delivering the .50 caliber BMG rifle to a person
14 pursuant to this paragraph, the dealer shall dispose of the .50 BMG rifle as allowed
15 by this chapter.

16 (c) A person who has registered an assault weapon or registered a .50 BMG rifle
17 under this section may possess it only under any of the following conditions unless
18 a permit allowing additional uses is first obtained under Section 12286:

19 (1) At that person's residence, place of business, or other property owned by that
20 person, or on property owned by another with the owner's express permission.

21 (2) While on the premises of a target range of a public or private club or
22 organization organized for the purpose of practicing shooting at targets.

23 (3) While on a target range that holds a regulatory or business license for the
24 purpose of practicing shooting at that target range.

25 (4) While on the premises of a shooting club which is licensed pursuant to the
26 Fish and Game Code.

27 (5) While attending any exhibition, display, or educational project which is
28 about firearms and which is sponsored by, conducted under the auspices of, or
29 approved by a law enforcement agency or a nationally or state recognized entity
30 that fosters proficiency in, or promotes education about, firearms.

31 (6) While on publicly owned land if the possession and use of a firearm
32 described in Section 12276, 12276.1, 12276.5, or 12278, is specifically permitted
33 by the managing agency of the land.

34 (7) While transporting the assault weapon or .50 BMG rifle between any of the
35 places mentioned in this subdivision, or to any licensed gun dealer, as defined in
36 subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision
37 (b) of Section 12290, if the assault weapon is transported as required by Section
38 12026.1.

39 (d) No person who is under the age of 18 years, and no person who is prohibited
40 by state or federal law from possessing, receiving, owning, or purchasing a firearm
41 may register or possess an assault weapon or .50 BMG rifle.

1 (e) The department's registration procedures shall provide the option of joint
2 registration for assault weapons or .50 BMG rifle owned by family members
3 residing in the same household.

4 (f) For 90 days following January 1, 1992, a forgiveness period shall exist to
5 allow persons specified in subdivision (b) of Section 12280 to register with the
6 Department of Justice assault weapons that they lawfully possessed prior to June
7 1, 1989.

8 (g)(1) Any person who registered a firearm as an assault weapon pursuant to the
9 provisions of law in effect prior to January 1, 2000, where the assault weapon is
10 thereafter defined as an assault weapon pursuant to Section 12276.1, shall be
11 deemed to have registered the weapon for purposes of this chapter and shall not be
12 required to reregister the weapon pursuant to this section.

13 (2) Any person who legally registered a firearm as an assault weapon pursuant
14 to the provisions of law in effect prior to January 1, 2005, where the assault
15 weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 12278,
16 shall be deemed to have registered the weapon for purposes of this chapter and
17 shall not be required to reregister the weapon pursuant to this section.

18 (h) Any person who registers his or her assault weapon during the 90-day
19 forgiveness period described in subdivision (f), and any person whose registration
20 form was received by the Department of Justice after January 1, 1991, and who
21 was issued a temporary registration prior to the end of the forgiveness period, shall
22 not be charged with a violation of subdivision (b) of Section 12280, if law
23 enforcement becomes aware of that violation only as a result of the registration of
24 the assault weapon. This subdivision shall have no effect upon persons charged
25 with a violation of subdivision (b) of Section 12280 of the Penal Code prior to
26 January 1, 1992, provided that law enforcement was aware of the violation before
27 the weapon was registered.

28 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
29 2008 Cal. Stat. ch. 698.

30 **Penal Code § 12286. Permits under specified circumstances**

31 12286. Any person who lawfully acquired an assault weapon before June 1,
32 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner
33 different than specified in subdivision (c) of Section 12285, who lawfully acquired
34 an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep
35 it after January 1, 1990, or who wishes to acquire an assault weapon after January
36 1, 1990, or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from
37 the Department of Justice in the same manner as specified in Article 3
38 (commencing with Section 12230) of Chapter 2.

39 **Penal Code § 12287. Issuance of permits by Department of Justice**

40 12287. (a) The Department of Justice may, upon a finding of good cause, issue
41 permits for the manufacture or sale of assault weapons or .50 BMG rifles for the

1 sale to, purchase by, or possession of assault weapons or .50 BMG rifles by, any
2 of the following:

3 (1) The agencies listed in subdivision (e), and the officers described in
4 subdivision (f) of Section 12280.

5 (2) Entities and persons who have been issued permits pursuant to this section or
6 Section 12286.

7 (3) Entities outside the state who have, in effect, a federal firearms dealer's
8 license solely for the purpose of distribution to an entity listed in paragraphs (4) to
9 (6), inclusive.

10 (4) Federal law enforcement and military agencies.

11 (5) Law enforcement and military agencies of other states.

12 (6) Foreign governments and agencies approved by the United States State
13 Department.

14 (b) Application for the permits, the keeping and inspection thereof, and the
15 revocation of permits shall be undertaken in the same manner as specified in
16 Article 3 (commencing with Section 12230) of Chapter 2.

17 **Penal Code § 12288. Relinquishment of assault weapon or .50 BMG rifle**

18 12288. Any individual may arrange in advance to relinquish an assault weapon
19 or a .50 BMG rifle to a police or sheriff's department. The assault weapon or .50
20 BMG rifle shall be transported in accordance with Section 12026.1.

21 **Penal Code § 12288.5. Broadcasting over police radio**

22 12288.5. (a) No peace officer or dispatcher shall broadcast over a police radio
23 that an individual has registered, or has obtained a permit to possess, an assault
24 weapon or .50 BMG rifle pursuant to this chapter, unless there exists a reason to
25 believe in good faith that one of the following conditions exist:

26 (1) The individual has engaged, or may be engaged, in criminal conduct.

27 (2) The police are responding to a call in which the person allegedly committing
28 a criminal violation may gain access to the assault weapon or .50 BMG rifle.

29 (3) The victim, witness, or person who reported the alleged criminal violation
30 may be using the assault weapon or .50 BMG rifle to hold the person allegedly
31 committing the criminal violation or may be using the weapon in defense of
32 himself, herself, or other persons.

33 (b) This section shall not prohibit a peace officer or dispatcher from
34 broadcasting over a police radio that an individual has not registered, or has not
35 obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this
36 chapter.

37 (c) This section does not limit the transmission of an assault weapon or a .50
38 BMG rifle ownership status via law enforcement computers or any other medium
39 that is legally accessible only to peace officers or other authorized personnel.

1 **Penal Code § 12289. Public education and notification program**

2 12289. (a) The Department of Justice shall conduct a public education and
3 notification program regarding the registration of assault weapons and the
4 definition of the weapons set forth in Section 12276.1. The public education and
5 notification program shall include outreach to local law enforcement agencies and
6 utilization of public service announcements in a variety of media approaches, to
7 ensure maximum publicity of the limited forgiveness period of the registration
8 requirement specified in subdivision (f) of Section 12285 and the consequences of
9 nonregistration. The department shall develop posters describing gunowners'
10 responsibilities under this chapter which shall be posted in a conspicuous place in
11 every licensed gun store in the state during the forgiveness period. For .50 BMG
12 rifles, the department's education campaign shall provide materials to dealers of
13 .50 BMG rifles, and to recognized national associations that specialize in .50
14 BMG rifles.

15 (b) Any costs incurred by the Department of Justice to implement this section
16 which cannot be absorbed by the department shall be funded from the Dealers'
17 Record of Sale Special Account, as set forth in subdivision (d) of Section 12076,
18 upon appropriation by the Legislature.

19 **Penal Code § 12289.5. Inspection conducted by Department of Justice**

20 12289.5. (a) Except as provided in subdivision (b), the Department of Justice
21 shall, for every person, firm, or corporation to whom a permit is issued pursuant to
22 this article, annually conduct an inspection for security and safe storage purposes,
23 and to reconcile the inventory of assault weapons.

24 (b) A person, firm, or corporation with an inventory of fewer than five devices
25 that require any Department of Justice permit shall be subject to an inspection for
26 security and safe storage purposes, and to reconcile inventory, once every five
27 years, or more frequently if determined by the department.

28 Article 4. Licensed Gun Dealers

29 **Penal Code § 12290. Special rules for licensed gun dealers**

30 12290. (a) Any licensed gun dealer, as defined in subdivision (c), who lawfully
31 possesses an assault weapon or .50 BMG rifle pursuant to Section 12285, in
32 addition to the uses allowed in Section 12285, may transport the firearm between
33 dealers or out of the state if that person is permitted pursuant to the National
34 Firearms Act, display it at any gun show licensed by a state or local governmental
35 entity, sell it to a resident outside the state, or sell it to a person who has been
36 issued a permit pursuant to Section 12286. Any transporting allowed by this
37 section must be done as required by Section 12026.1.

38 (b)(1) Any licensed gun dealer, as defined in subdivision (c), may take
39 possession of any assault weapon or .50 BMG rifle for the purposes of servicing or

1 repair from any person to whom it is legally registered or who has been issued a
2 permit to possess it pursuant to this chapter.

3 (2) Any licensed gun dealer, as defined in subdivision (c), may transfer
4 possession of any assault weapon or .50 BMG rifle received pursuant to paragraph
5 (1), to a gunsmith for purposes of accomplishing service or repair of the same.
6 Transfers are permissible only to the following persons:

7 (A) A gunsmith who is in the dealer's employ.

8 (B) A gunsmith with whom the dealer has contracted for gunsmithing services.
9 In order for this subparagraph to apply, the gunsmith receiving the assault weapon
10 or .50 BMG rifle shall hold all of the following:

11 (i) A dealer's license issued pursuant to Chapter 44 (commencing with Section
12 921) of Title 18 of the United States Code and the regulations issued pursuant
13 thereto.

14 (ii) Any business license required by a state or local governmental entity.

15 (c) The term "licensed gun dealer," as used in this article, means a person who
16 is licensed pursuant to Section 12071 and who has a permit to sell assault weapons
17 or .50 BMG rifles pursuant to Section 12287.

18 CHAPTER 2.5. DESTRUCTIVE DEVICES

19 Penal Code § 12301. "Destructive device" and "explosive"

20 12301. (a) The term "destructive device," as used in this chapter, shall include
21 any of the following weapons:

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

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

28 (3) Any weapon of a caliber greater than 0.60 caliber which fires fixed
29 ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled
30 bore) conforming to the definition of a "destructive device" found in subsection
31 (b) of Section 479.11 of Title 27 of the Code of Federal Regulations, shotgun
32 ammunition (single projectile or shot), antique rifle, or an antique cannon. For
33 purposes of this section, the term "antique cannon" means any cannon
34 manufactured before January 1, 1899, which has been rendered incapable of firing
35 or for which ammunition is no longer manufactured in the United States and is not
36 readily available in the ordinary channels of commercial trade. The term "antique
37 rifle" means a firearm conforming to the definition of an "antique firearm" in
38 Section 479.11 of Title 27 of the Code of Federal Regulations.

39 (4) Any rocket, rocket-propelled projectile, or similar device of a diameter
40 greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-

1 propelled projectile, or similar device containing any explosive or incendiary
2 material or any other chemical substance, other than the propellant for that device,
3 except those devices as are designed primarily for emergency or distress signaling
4 purposes.

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

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

12 (b) The term “**explosive,**” as used in this chapter, shall mean any explosive
13 defined in Section 12000 of the Health and Safety Code.

14 **Penal Code § 12302. Use of destructive device or explosive by law enforcement, military, or**
15 **firefighter**

16 12302. Nothing in this chapter shall prohibit the sale to, purchase by, or
17 possession, transportation, storage, or use of, destructive devices or explosives by:

18 (a) Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the
19 Department of Justice authorized by the Attorney General, while on duty and
20 acting within the scope and course of his or her employment.

21 (b) Any member of the Army, Navy, Air Force, or Marine Corps of the United
22 States, or the National Guard, while on duty and acting within the scope and
23 course of his or her employment.

24 Nothing in this chapter prohibits the sale to, or the purchase, possession,
25 transportation, storage, or use by any person who is a regularly employed and paid
26 officer, employee, or member of a fire department or fire protection or firefighting
27 agency of the federal government, the State of California, a city, county, city and
28 county, district, or other public or municipal corporation or political subdivision of
29 this state, while on duty and acting within the scope and course of his or her
30 employment, of any equipment used by that department or agency in the course of
31 fire suppression.

32 **Penal Code § 12303. Unlawful possession of destructive device**

33 12303. Any person, firm, or corporation who, within this state, possesses any
34 destructive device, other than fixed ammunition of a caliber greater than .60
35 caliber, except as provided by this chapter, is guilty of a public offense and upon
36 conviction thereof shall be punished by imprisonment in the county jail for a term
37 not to exceed one year, or in state prison, or by a fine not to exceed ten thousand
38 dollars (\$10,000) or by both such fine and imprisonment.

1 **Penal Code § 12303.1. Explosive or destructive device on vessel, aircraft, or other vehicle**

2 12303.1. Every person who willfully does any of the following is guilty of a
3 felony and is punishable by imprisonment in the state prison for two, four, or six
4 years:

5 (a) Carries any explosive or destructive device on any vessel, aircraft, car, or
6 other vehicle that transports passengers for hire.

7 (b) Places or carries any explosive or destructive device, while on board any
8 such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other
9 container.

10 (c) Places any explosive or destructive device in any baggage which is later
11 checked with any common carrier.

12 **Penal Code § 12303.2. Reckless or malicious possession of explosive or destructive device in**
13 **public place**

14 12303.2. Every person who recklessly or maliciously has in his possession any
15 destructive device or any explosive on a public street or highway, in or near any
16 theater, hall, school, college, church, hotel, other public building, or private
17 habitation, in, on, or near any aircraft, railway passenger train, car, cable road or
18 cable car, vessel engaged in carrying passengers for hire, or other public place
19 ordinarily passed by human beings is guilty of a felony, and shall be punishable by
20 imprisonment in the state prison for a period of two, four, or six years.

21 **Penal Code § 12303.3. Use or attempted use of destructive device with intent to cause fear or**
22 **harm**

23 12303.3. Every person who possesses, explodes, ignites, or attempts to explode
24 or ignite any destructive device or any explosive with intent to injure, intimidate,
25 or terrify any person, or with intent to wrongfully injure or destroy any property, is
26 guilty of a felony, and shall be punished by imprisonment in the state prison for a
27 period of three, five, or seven years.

28 **Penal Code § 12303.6. Sale or transportation of destructive device other than fixed**
29 **ammunition greater than .60 caliber**

30 12303.6. Any person, firm, or corporation who, within this state, sells, offers for
31 sale, or knowingly transports any destructive device, other than fixed ammunition
32 of a caliber greater than .60 caliber, except as provided by **this chapter**, is guilty of
33 a felony and is punishable by imprisonment in the state prison for two, three or
34 four years.

35 **Penal Code § 12304. Sale, possession, or transport of fixed ammunition greater than .60**
36 **caliber**

37 12304. Any person, firm or corporation who, within this state, sells, offers for
38 sale, possesses or knowingly transports any fixed ammunition of a caliber greater
39 than .60 caliber, except as provided in **this chapter**, is guilty of a public offense

1 and upon conviction thereof shall be punished by imprisonment in the county jail
2 for a term not to exceed six months or by a fine not to exceed one thousand dollars
3 (\$1,000), or by both such fine and imprisonment.

4 A second or subsequent conviction shall be punished by imprisonment in the
5 county jail for a term not to exceed one year, or by imprisonment in the state
6 prison, or by a fine not to exceed three thousand dollars (\$3,000), or by both such
7 fine and imprisonment.

8 **Penal Code § 12305. Permit for destructive device**

9 12305. (a) Every dealer, manufacturer, importer, and exporter of any destructive
10 device, or any motion picture or television studio using destructive devices in the
11 conduct of its business, shall obtain a permit for the conduct of that business from
12 the Department of Justice.

13 (b) Any person, firm, or corporation not mentioned in subdivision (a) shall
14 obtain a permit from the Department of Justice in order to possess or transport any
15 destructive device. No permit shall be issued to any person who meets any of the
16 following criteria:

17 (1) Has been convicted of any felony.

18 (2) Is addicted to the use of any narcotic drug.

19 (3) Is prohibited by state or federal law from possessing, receiving, owning, or
20 purchasing a firearm.

21 (c) Applications for permits shall be filed in writing, signed by the applicant if
22 an individual, or by a member or officer qualified to sign if the applicant is a firm
23 or corporation, and shall state the name, business in which engaged, business
24 address and a full description of the use to which the destructive devices are to be
25 put.

26 (d) Applications and permits shall be uniform throughout the state on forms
27 prescribed by the Department of Justice.

28 (e) Each applicant for a permit shall pay at the time of filing his or her
29 application a fee not to exceed the application processing costs of the Department
30 of Justice. A permit granted pursuant to this article may be renewed one year from
31 the date of issuance, and annually thereafter, upon the filing of a renewal
32 application and the payment of a permit renewal fee not to exceed the application
33 processing costs of the Department of Justice. After the department establishes
34 fees sufficient in amount to cover processing costs, the amount of the fees shall
35 only increase at a rate not to exceed the legislatively approved cost-of-living
36 adjustment for the department.

37 (f) Except as provided in subdivision (g), the Department of Justice shall, for
38 every person, firm, or corporation to whom a permit is issued pursuant to this
39 article, annually conduct an inspection for security and safe storage purposes, and
40 to reconcile the inventory of destructive devices.

41 (g) A person, firm, or corporation with an inventory of fewer than five devices
42 that require any Department of Justice permit shall be subject to an inspection for

1 security and safe storage purposes, and to reconcile inventory, once every five
2 years, or more frequently if determined by the department.

3 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
4 2008 Cal. Stat. ch. 698.

5 **Penal Code § 12307. Destructive device constituting nuisance**

6 12307. The possession of any destructive device in violation of **this chapter** shall
7 be deemed to be a public nuisance and the Attorney General or district attorney of
8 any city, county, or city and county may bring an action before the superior court
9 to enjoin the possession of any destructive device.

10 Any destructive device found to be in violation of **this chapter** shall be
11 surrendered to the Department of Justice, or to the sheriff or chief of police, if the
12 sheriff or chief of police has elected to perform the services required by **this**
13 **section**. The department, sheriff, or chief of police shall destroy the destructive
14 device so as to render it unusable and unrepairable as a destructive device, except
15 upon the filing of a certificate with the department by a judge or district attorney
16 stating that the preservation of the destructive device is necessary to serve the ends
17 of justice.

18 **Penal Code § 12308. Use or attempted use of destructive device with intent to commit**
19 **murder**

20 12308. Every person who explodes, ignites, or attempts to explode or ignite any
21 destructive device or any explosive with intent to commit murder is guilty of a
22 felony, and shall be punished by imprisonment in the state prison for life with the
23 possibility of parole.

24 **Penal Code § 12309. Willful and malicious use of explosive or destructive device resulting in**
25 **bodily injury**

26 12309. Every person who willfully and maliciously explodes or ignites any
27 destructive device or any explosive which causes bodily injury to any person is
28 guilty of a felony, and shall be punished by imprisonment in the state prison for a
29 period of five, seven, or nine years.

30 **Penal Code § 12310. Willful and malicious use of explosive or destructive device resulting in**
31 **death, mayhem, or great bodily injury**

32 12310. (a) Every person who willfully and maliciously explodes or ignites any
33 destructive device or any explosive which causes the death of any person is guilty
34 of a felony, and shall be punished by imprisonment in the state prison for life
35 without the possibility of parole.

36 (b) Every person who willfully and maliciously explodes or ignites any
37 destructive device or any explosive which causes mayhem or great bodily injury to
38 any person is guilty of a felony, and shall be punished by imprisonment in the state
39 prison for life.

1 **Penal Code § 12311. No probation or suspension of sentence**

2 12311. No person convicted of a violation of **this chapter** shall be granted
3 probation, and the execution of the sentence imposed upon such person shall not
4 be suspended by the court.

5 **Penal Code § 12312. Possession of materials with intent to create destructive device or**
6 **explosive**

7 12312. Every person who possesses any substance, material, or any combination
8 of substances or materials, with the intent to make any destructive device or any
9 explosive without first obtaining a valid permit to make such destructive device or
10 explosive, is guilty of a felony, and is punishable by imprisonment in the state
11 prison for two, three, or four years.

12 **CHAPTER 2.6. AMMUNITION**

13 **Penal Code § 12316. Unlawful acts relating to ammunition**

14 12316. (a)(1) Any person, corporation, or dealer who does either of the
15 following shall be punished by imprisonment in a county jail for a term not to
16 exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by
17 both the imprisonment and fine:

18 (A) Sells any ammunition or reloaded ammunition to a person under 18 years of
19 age.

20 (B) Sells any ammunition or reloaded ammunition designed and intended for use
21 in a handgun to a person under 21 years of age. As used in **this subparagraph**,
22 **“ammunition”** means handgun ammunition as defined in **subdivision (a) of**
23 **Section 12323**. Where ammunition or reloaded ammunition may be used in both a
24 rifle and a handgun, it may be sold to a person who is at least 18 years of age, but
25 less than 21 years of age, if the vendor reasonably believes that the ammunition is
26 being acquired for use in a rifle and not a handgun.

27 (2) Proof that a person, corporation, or dealer, or his or her agent or employee,
28 demanded, was shown, and acted in reasonable reliance upon, bona fide evidence
29 of majority and identity shall be a defense to any criminal prosecution under **this**
30 **subdivision**. As used in **this subdivision**, **“bona fide evidence of majority and**
31 **identity”** means a document issued by a federal, state, county, or municipal
32 government, or subdivision or agency thereof, including, but not limited to, a
33 motor vehicle operator’s license, California state identification card, identification
34 card issued to a member of the armed forces, or other form of identification that
35 bears the name, date of birth, description, and picture of the person.

36 (b)(1) No person prohibited from owning or possessing a firearm under **Section**
37 **12021 or 12021.1 of this code** or **Section 8100 or 8103 of the Welfare and**
38 **Institutions Code** shall own, possess, or have under his or her custody or control,
39 any ammunition or reloaded ammunition.

1 (2) For purposes of this subdivision, “ammunition” shall include, but not be
2 limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or
3 projectile capable of being fired from a firearm with a deadly consequence.

4 (3) A violation of this subdivision is punishable by imprisonment in a county jail
5 not to exceed one year or in the state prison, by a fine not to exceed one thousand
6 dollars (\$1,000), or by both the fine and imprisonment.

7 (c) Unless it is with the written permission of the school district superintendent,
8 his or her designee, or equivalent school authority, no person shall carry
9 ammunition or reloaded ammunition onto school grounds, except sworn law
10 enforcement officers acting within the scope of their duties or persons exempted
11 under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This
12 subdivision shall not apply to a duly appointed peace officer as defined in Chapter
13 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace
14 officer of another state or the federal government who is carrying out official
15 duties while in California, any person summoned by any of these officers to assist
16 in making an arrest or preserving the peace while he or she is actually engaged in
17 assisting the officer, a member of the military forces of this state or of the United
18 States who is engaged in the performance of his or her duties, a person holding a
19 valid license to carry the firearm pursuant to Article 3 (commencing with Section
20 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is
21 engaged in the performance of his or her duties, as defined in subdivision (e) of
22 Section 7521 of the Business and Professions Code. A violation of this subdivision
23 is punishable by imprisonment in a county jail for a term not to exceed six months,
24 a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and
25 fine.

26 (d)(1) A violation of paragraph (1) of subdivision (b) is justifiable where all of
27 the following conditions are met:

28 (A) The person found the ammunition or reloaded ammunition or took the
29 ammunition or reloaded ammunition from a person who was committing a crime
30 against him or her.

31 (B) The person possessed the ammunition or reloaded ammunition no longer
32 than was necessary to deliver or transport the ammunition or reloaded ammunition
33 to a law enforcement agency for that agency’s disposition according to law.

34 (C) The person is prohibited from possessing any ammunition or reloaded
35 ammunition solely because that person is prohibited from owning or possessing a
36 firearm only by virtue of Section 12021.

37 (2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact
38 shall determine whether the defendant is subject to the exemption created by this
39 subdivision.

40 (3) The defendant has the burden of proving by a preponderance of the evidence
41 that he or she is subject to the exemption provided by this subdivision.

1 **Penal Code § 12320. Knowing possession of handgun ammunition designed to penetrate**
2 **metal or armor**

3 12320. Any person, firm, or corporation who, within this state knowingly
4 possesses any handgun ammunition designed primarily to penetrate metal or armor
5 is guilty of a public offense and upon conviction thereof shall be punished by
6 imprisonment in the state prison, or in the county jail for a term not to exceed one
7 year, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine
8 and imprisonment.

9 **Penal Code § 12321. Import, sale, or knowing transport of handgun ammunition designed**
10 **to penetrate metal or armor**

11 12321. Any person, firm, or corporation who, within this state, manufactures,
12 imports, sells, offers to sell, or knowingly transports any handgun ammunition
13 designed primarily to penetrate metal or armor is guilty of a felony and upon
14 conviction thereof shall be punished by imprisonment in state prison, or by a fine
15 not to exceed five thousand dollars (\$5,000), or by both such fine and
16 imprisonment.

17 **Penal Code § 12322. Limitations on application of ammunition restrictions**

18 12322. Nothing in **this chapter** shall apply to or affect either of the following:

19 (a) The sale to, purchase by, possession of, or use of any ammunition by any
20 member of the Army, Navy, Air Force, or Marine Corps of the United States, or
21 the National Guard, while on duty and acting within the scope and course of his or
22 her employment, or any police agency or forensic laboratory or any person who is
23 the holder of a valid permit issued pursuant to **Section 12305**.

24 (b) The possession of handgun ammunition designed primarily to penetrate
25 metal or armor by a person who found the ammunition, if he or she is not
26 prohibited from possessing firearms or ammunition pursuant to **Section 12021**,
27 **12021.1**, or paragraph (1) of subdivision (b) of **Section 12316** of this code or
28 **Section 8100** or **8103** of the **Welfare and Institutions Code** and is transporting the
29 ammunition to a law enforcement agency for disposition according to law.

30 **Penal Code § 12323. Definitions**

31 12323. As used in **this chapter**, the following definitions shall apply:

32 (a) **“Handgun ammunition”** means ammunition principally for use in pistols,
33 revolvers, and other firearms capable of being concealed upon the person, as
34 defined in **subdivision (a) of Section 12001**, notwithstanding that the ammunition
35 may also be used in some rifles.

36 (b) **“Handgun ammunition designed primarily to penetrate metal or**
37 **armor”** means any ammunition, except a shotgun shell or ammunition primarily
38 designed for use in rifles, that is designed primarily to penetrate a body vest or
39 body shield, and has either of the following characteristics:

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

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

10 (c) **“Body vest or shield”** means any bullet-resistant material intended to
11 provide ballistic and trauma protection for the wearer or holder.

12 (d) **“Rifle”** shall have the same meaning as defined in paragraph (20) of
13 subdivision (c) of Section 12020.

14 **Penal Code § 12324. Permanently deactivated ammunition**

15 12324. Nothing in this chapter shall prohibit the possession, importation, sale,
16 attempted sale, or transport of ammunition from which the propellant has been
17 removed and the primer has been permanently deactivated.

18 **Penal Code § 12325. Ammunition manufactured under contract approved by government**
19 **agency**

20 12325. Nothing in this chapter shall prohibit the manufacture of ammunition
21 under contracts approved by agencies of the state or federal government.

22 **CHAPTER 3.2. BOOBYTRAPS**

23 **Penal Code § 12355. Boobytraps**

24 12355. (a) Except as provided in Chapter 2.5 (commencing with Section 12301),
25 any person who assembles, maintains, places, or causes to be placed a boobytrap
26 device as described in subdivision (c) is guilty of a felony punishable by
27 imprisonment in the state prison for two, three, or five years.

28 (b) Possession of any device with the intent to use the device as a boobytrap is
29 punishable by imprisonment in state prison, or in a county jail not exceeding one
30 year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine
31 and imprisonment.

32 (c) For purposes of this section, **“boobytrap”** means any concealed or
33 camouflaged device designed to cause great bodily injury when triggered by an
34 action of any unsuspecting person coming across the device. Boobytraps may
35 include, but are not limited to, guns, ammunition, or explosive devices attached to
36 trip wires or other triggering mechanisms, sharpened stakes, and lines or wire with
37 hooks attached.

1 CHAPTER 3.5. BODY ARMOR CERTIFICATION

2 **Penal Code § 12360. Certification requirement for acquisition of body armor**

3 12360. No body armor shall be acquired by the commissioner pursuant to
4 Section 2259.5 of the Vehicle Code unless, pursuant to subdivision (a) of Section
5 12361, the Department of Justice has certified such body armor.

6 **Penal Code § 12361. Performance standards for body armor**

7 12361. (a) Before a body armor may be purchased for use by state peace officers
8 the Department of Justice, after consultation with the Department of the California
9 Highway Patrol, shall establish minimum ballistic performance standards, and
10 shall determine that the armor satisfies those standards.

11 (b) Only body armor that meets state requirements under subdivision (a) for
12 acquisition or purchase shall be eligible for testing for certification under the
13 ballistic performance standards established by the Department of Justice; and only
14 body armor that is certified as acceptable by the department shall be purchased for
15 use by state peace officers.

16 **Penal Code § 12362. Application for certification of body armor**

17 12362. Any person engaged in the manufacture or sale of body armor may apply
18 to the Department of Justice for certification that a particular type of body armor
19 manufactured or sold by that person is acceptable. The applicant shall reimburse
20 the state for any actual expenses incurred by the state in testing and certifying a
21 particular type of body armor.

22 **Penal Code § 12363. Content of application**

23 12363. Any application submitted pursuant to Section 12362 shall contain all of
24 the following:

25 (a) Full written reports of any investigation conducted for the purpose of
26 determining whether such body armor is acceptable.

27 (b) A full written statement of the design of such body armor.

28 (c) A full written statement of the methods used in, and the facilities and
29 controls used for, the manufacture of such body armor.

30 (d) Such samples of body armor and its components as the department may
31 require.

32 (e) Specimens of the instructions and advertisements used or proposed to be
33 used for such body armor.

34 **Penal Code § 12364. Schedule for ballistic testing**

35 12364. The Department of Justice, in cooperation with the Office of
36 Procurement of the Department of General Services, shall establish a schedule for
37 ballistic testing for certification pursuant to subdivision (b) of Section 12361.

1 **Penal Code § 12365. Refusal to certify body armor**

2 12365. The department shall issue an order refusing to certify a body armor as
3 acceptable if, after due notice to the applicant, the department finds any of the
4 following:

5 (a) That the body armor does not satisfy the ballistic performance standards
6 established by the department pursuant to subdivision (b) of Section 12361.

7 (b) That the application contains any misrepresentation of a material fact.

8 (c) That the application is materially incomplete.

9 (d) That the applicant has failed to reimburse the state as required by Section
10 12362.

11 **Penal Code § 12366. Revocation of certification**

12 12366. The department shall issue an order revoking certification if, after due
13 notice to the applicant, the department finds any of the following:

14 (a) That the experience or additional testing show that the body armor does not
15 comply with the department's ballistic performance standards.

16 (b) That the application contains any misrepresentation of a material fact.

17 (c) The body armor must be retested for certification under new department
18 standards.

19 **Penal Code § 12367. Regulations**

20 12367. The department shall adopt and promulgate regulations for the fair and
21 efficient enforcement of this chapter.

22 **Penal Code § 12368. Purchases of body armor by Department of General Services**

23 12368. (a) All purchases of certified body armor under the provisions of this
24 chapter shall be made by the Department of General Services on behalf of an
25 authorized state agency or department. Purchases of body armor shall be based
26 upon written requests submitted by an authorized state agency or department to the
27 Department of General Services.

28 (b) The Department of General Services shall make certified body armor
29 available to peace officers of the Department of Justice, as defined by Section
30 830.3 of the Penal Code, while engaged in law enforcement activities.

31 **Penal Code § 12369. Process for defining "enforcement activities" and developing standards
32 for replacement of body armor**

33 12369. The Department of General Services shall, pursuant to departmental
34 regulation, after consultation with the Department of the California Highway
35 Patrol, define the term "enforcement activities" for purposes of this chapter, and
36 develop standards regarding what constitutes sufficient wear on body armor to
37 necessitate replacement thereof.

1 **Penal Code § 12370. Purchase, ownership, or possession of body armor by person convicted**
2 **of violent felony**

3 12370. (a) Any person who has been convicted of a violent felony, as defined in
4 subdivision (c) of Section 667.5, under the laws of the United States, the State of
5 California, or any other state, government, or country, who purchases, owns, or
6 possesses body armor, as defined by Section 942 of Title 11 of the California
7 Code of Regulations, except as authorized under subdivision (b), is guilty of a
8 felony, punishable by imprisonment in a state prison for 16 months, or two or
9 three years.

10 (b) Any person whose employment, livelihood, or safety is dependent on the
11 ability to legally possess and use body armor, who is subject to the prohibition
12 imposed by subdivision (a) due to a prior violent felony conviction, may file a
13 petition with the chief of police or county sheriff of the jurisdiction in which he or
14 she seeks to possess and use the body armor for an exception to this prohibition.
15 The chief of police or sheriff may reduce or eliminate the prohibition, impose
16 conditions on reduction or elimination of the prohibition, or otherwise grant relief
17 from the prohibition as he or she deems appropriate, based on the following:

18 (1) A finding that the petitioner is likely to use body armor in a safe and lawful
19 manner.

20 (2) A finding that the petitioner has a reasonable need for this type of protection
21 under the circumstances.

22 In making its decision, the chief of police or sheriff shall consider the
23 petitioner's continued employment, the interests of justice, any relevant evidence,
24 and the totality of the circumstances. It is the intent of the Legislature that law
25 enforcement officials exercise broad discretion in fashioning appropriate relief
26 under this paragraph in cases in which relief is warranted. However, this paragraph
27 may not be construed to require law enforcement officials to grant relief to any
28 particular petitioner. Relief from this prohibition does not relieve any other person
29 or entity from any liability that might otherwise be imposed.

30 (c) The chief of police or sheriff shall require, as a condition of granting an
31 exception under subdivision (b), that the petitioner agree to maintain on his or her
32 person a certified copy of the law enforcement official's permission to possess and
33 use body armor, including any conditions or limitations.

34 (d) Law enforcement officials who enforce the prohibition specified in
35 subdivision (a) against a person who has been granted relief pursuant to
36 subdivision (b), shall be immune from any liability for false arrest arising from the
37 enforcement of this subdivision unless the person has in his or her possession a
38 certified copy of the permission granting the person relief from the prohibition, as
39 required by subdivision (c). This immunity from liability does not relieve any
40 person or entity from any other liability that might otherwise be imposed.

41 (e) For purposes of this section only, **“violent felony”** refers to the specific
42 crimes listed in subdivision (c) of Section 667.5, and to crimes defined under the

1 applicable laws of the United States or any other state, government, or country that
2 are reasonably equivalent to the crimes listed in subdivision (c) of Section 667.5.

3 CHAPTER 4. TEAR GAS WEAPONS

4 Article 1. General Provisions

5 **Penal Code § 12401. “Tear gas”**

6 12401. “**Tear gas**” as used in this chapter shall apply to and include all liquid,
7 gaseous or solid substances intended to produce temporary physical discomfort or
8 permanent injury through being vaporized or otherwise dispersed in the air, but
9 does not apply to, and shall not include, any substance registered as an economic
10 poison as provided in Chapter 2 (commencing with Section 12751) of Division 7
11 of the Agricultural Code provided that such substance is not intended to be used to
12 produce discomfort or injury to human beings.

13 **Penal Code § 12402. “Tear gas weapon”**

14 12402. The term “**tear gas weapon**” as used in this chapter shall apply to and
15 include:

16 (a) Any shell, cartridge, or bomb capable of being discharged or exploded, when
17 the discharge or explosion will cause or permit the release or emission of tear
18 gases.

19 (b) Any revolvers, pistols, fountain pen guns, billies, or other form of device,
20 portable or fixed, intended for the projection or release of tear gas except those
21 regularly manufactured and sold for use with firearm ammunition.

22 **Penal Code § 12403. Peace officer trained in use of tear gas**

23 12403. Nothing in this chapter shall prohibit any person who is a peace officer,
24 as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,
25 from purchasing, possessing, transporting, or using any tear gas or tear gas
26 weapon if the person has satisfactorily completed a course of instruction approved
27 by the Commission on Peace Officer Standards and Training in the use of tear gas.

28 **Penal Code § 12403.1. Member of military or federal law enforcement officer**

29 12403.1. Nothing in this chapter shall prohibit any member of the military and
30 naval forces of this state or of the United States or any federal law enforcement
31 officer from purchasing, possessing, or transporting any tear gas or tear gas
32 weapon for official use in the discharge of his duties.

33 **Penal Code § 12403.5. Private investigator or private patrol operator or employee**

34 12403.5. Notwithstanding any other provision of law, a person holding a license
35 as a private investigator or private patrol operator issued pursuant to Chapter 11

1 (commencing with Section 7500), Division 3 of the Business and Professions
2 Code, or uniformed patrolmen employees of a private patrol operator, may
3 purchase, possess, or transport any tear gas weapon, if it is used solely for
4 defensive purposes in the course of the activity for which the license was issued
5 and if the person has satisfactorily completed a course of instruction approved by
6 the Department of Consumer Affairs in the use of tear gas.

7 **Penal Code § 12403.7. Lawful and unlawful acts relating to tear gas and tear gas weapons**

8 12403.7. Notwithstanding any other law, any person may purchase, possess, or
9 use tear gas and tear gas weapons for the projection or release of tear gas if the
10 tear gas and tear gas weapons are used solely for self-defense purposes, subject to
11 the following requirements:

12 (a) No person convicted of a felony or any crime involving an assault under the
13 laws of the United States, the State of California, or any other state, government,
14 or country or convicted of misuse of tear gas under subdivision (g) shall purchase,
15 possess, or use tear gas or tear gas weapons.

16 (b) No person who is addicted to any narcotic drug shall purchase, possess, or
17 use tear gas or tear gas weapons.

18 (c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

19 (d) No person who is a minor shall purchase, possess, or use tear gas or tear gas
20 weapons.

21 (e)(1) No person shall purchase, possess, or use any tear gas weapon that expels
22 a projectile, or that expels the tear gas by any method other than an aerosol spray,
23 or that contains more than 2.5 ounces net weight of aerosol spray.

24 (2) Every tear gas container and tear gas weapon that may be lawfully
25 purchased, possessed, and used pursuant to this section shall have a label that
26 states: "WARNING: The use of this substance or device for any purpose other
27 than self-defense is a crime under the law. The contents are dangerous — use with
28 care."

29 (3) After January 1, 1984, every tear gas container and tear gas weapon that may
30 be lawfully purchased, possessed, and used pursuant to this section shall have a
31 label that discloses the date on which the useful life of the tear gas weapon
32 expires.

33 (4) Every tear gas container and tear gas weapon that may be lawfully purchased
34 pursuant to this section shall be accompanied at the time of purchase by printed
35 instructions for use.

36 (f) Effective March 1, 1994, every tear gas container and tear gas weapon that
37 may be lawfully purchased, possessed, and used pursuant to this section shall be
38 accompanied by an insert including directions for use, first aid information, safety
39 and storage information, and explanation of the legal ramifications of improper
40 use of the tear gas container or tear gas product.

41 (g) Any person who uses tear gas or tear gas weapons except in self-defense is
42 guilty of a public offense and is punishable by imprisonment in a state prison for

1 16 months, or two or three years or in a county jail not to exceed one year or by a
2 fine not to exceed one thousand dollars (\$1,000), or by both the fine and
3 imprisonment, except that, if the use is against a peace officer, as defined in
4 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the
5 performance of his or her official duties and the person committing the offense
6 knows or reasonably should know that the victim is a peace officer, the offense is
7 punishable by imprisonment in a state prison for 16 months or two or three years
8 or by a fine of one thousand dollars (\$1,000), or by both the fine and
9 imprisonment.

10 **Penal Code § 12403.8. Minor 16-years-old or older**

11 12403.8. (a) Notwithstanding paragraph (4) of subdivision (a) of Section
12 12403.7, a minor who has attained the age of 16 years may purchase and possess
13 tear gas or tear gas weapons pursuant to this chapter if he or she is accompanied
14 by a parent or guardian, or has the written consent of his or her parent or guardian.

15 (b) Notwithstanding paragraph (3) of subdivision (a) of Section 12403.7, a
16 person may sell or furnish tear gas or a tear gas weapon to a minor who has
17 attained the age of 16 years and who is accompanied by a parent or guardian, or
18 who presents a statement of consent signed by the minor's parent or guardian.

19 (c) Any civil liability of a minor arising out of his or her use of tear gas or a tear
20 gas weapon other than for self-defense is imposed upon the person, parent, or
21 guardian who signed the statement of consent specified in subdivision (b) who
22 shall be jointly and severally liable with the minor for any damages proximately
23 resulting from the negligent or wrongful act or omission of the minor in the use of
24 the tear gas or a tear gas weapon.

25 **Penal Code § 12403.9. Custodial officers of any county**

26 12403.9. Custodial officers of any county may carry tear gas weapons pursuant
27 to Section 12403 only while on duty. These custodial officers may carry tear gas
28 weapons while off duty only in accordance with all other laws.

29 **Penal Code § 12404. Tear gas or tear gas weapons in prison, jail, or similar institution**

30 12404. Nothing in this chapter authorizes the possession of tear gas or tear gas
31 weapons in any institution described in Section 4574, or within the grounds
32 belonging or adjacent to any such institution, except where authorized by the
33 person in charge of such institution.

34 Article 2. Unlawful Possession and Sale

35 **Penal Code § 12420. Unlawful sale, possession, or transport of tear gas or tear gas weapon**

36 12420. Any person, firm, or corporation who within this state knowingly sells or
37 offers for sale, possesses, or transports any tear gas or tear gas weapon, except as
38 permitted under the provisions of this chapter, is guilty of a public offense and

1 upon conviction thereof shall be punishable by imprisonment in the county jail for
2 not exceeding one year or by a fine not to exceed two thousand dollars (\$2,000),
3 or by both.

4 **Penal Code § 12421. Affixation of serial number and name of manufacturer**

5 12421. Each tear gas weapon sold, transported or possessed under the authority
6 of **this chapter** shall bear the name of the manufacturer and a serial number applied
7 by him.

8 **Penal Code § 12422. Obliteration of serial number, name of manufacturer, or other**
9 **identification mark**

10 12422. Any person who changes, alters, removes or obliterates the name of the
11 manufacturer, the serial number or any other mark of identification on any tear gas
12 weapon is guilty of a public offense and, upon conviction, shall be punished by
13 imprisonment in the state prison or by a fine of not more than two thousand dollars
14 (\$2,000) or by both.

15 Possession of any such weapon upon which the same shall have been changed,
16 altered, removed, or obliterated, shall be presumptive evidence that such possessor
17 has changed, altered, removed, or obliterated the same.

18 **Article 3. Permits**

19 **Penal Code § 12423. Permit issued by Department of Justice**

20 12423. The Department of Justice may issue a permit for the possession and
21 transportation of tear gas or tear gas weapons that are not intended or certified for
22 personal self-defense purposes, upon proof that good cause exists for the issuance
23 thereof to the applicant for this permit. The permit may also allow the applicant to
24 install, maintain, and operate a protective system involving the use of tear gas or
25 tear gas weapons in any place which is accurately and completely described in the
26 application for the permit.

27 **Penal Code § 12424. Permit application**

28 12424. Applications for permits shall be filed in writing, signed by the applicant
29 if an individual, or by a member or officer qualified to sign if the applicant is a
30 firm or corporation, and shall state the name, business in which engaged, business
31 address and a full description of the place or vehicle in which the tear gas or tear
32 gas weapons are to be transported, kept, installed, or maintained.

33 If the tear gas or tear gas weapons are to be used in connection with, or to
34 constitute, a protective system, the application shall also contain the name of the
35 person who is to install the protective system.

36 Applications and permits shall be uniform throughout the state upon forms
37 prescribed by the Department of Justice.

1 Each applicant for a permit shall pay at the time of filing his or her application a
2 fee determined by the Department of Justice not to exceed the application
3 processing costs of the Department of Justice. A permit granted pursuant to **this**
4 **article** may be renewed one year from the date of issuance, and annually
5 thereafter, upon the filing of a renewal application and the payment of a permit
6 renewal fee not to exceed the application processing costs of the Department of
7 Justice. After the department establishes fees sufficient to reimburse the
8 department for processing costs, fees charged shall increase at a rate not to exceed
9 the legislatively approved annual cost-of-living adjustments for the department's
10 budget.

11 **Penal Code § 12424.5. Permit for bank or other financial institution**

12 12424.5. Notwithstanding **Section 12423**, a bank, a savings and loan association,
13 a credit union, or an industrial loan company which maintains more than one
14 office or branch may make a single annual application for a permit. In addition to
15 the requirements set forth in **this article**, that application shall separately state the
16 business address and a full description of each office or branch in which the tear
17 gas or tear gas weapons are to be kept, installed, or maintained. Any location
18 additions or deletions as to offices or branches shall be reported to the department
19 within 60 days of the change.

20 A single permit issued under **this section** shall allow for the possession,
21 operation, and maintenance of tear gas at each office or branch named in the
22 application, including location changes.

23 **Penal Code § 12425. Storage of permit**

24 12425. Every person, firm or corporation to whom a permit is issued shall either
25 carry the permit upon his person or keep it in the place described in the permit.
26 The permit shall be open to inspection by any peace officer or other person
27 designated by the authority issuing the permit.

28 **Penal Code § 12426. Revocation or suspension of permit**

29 12426. Permits issued in accordance with **this article** may be revoked or
30 suspended by the issuing authority at any time when it appears that the need for
31 the possession or transportation of the tear gas or tear gas weapons or protective
32 system involving the use thereof, has ceased, or that the holder of the permit has
33 engaged in an unlawful business or occupation or has wrongfully made use of the
34 tear gas or tear gas weapons or the permit issued.

1

CHAPTER 5. FIREARM DEVICES

2

Article 1. General Provisions

3

Penal Code § 12500. “Silencer”

4

12500. The term “**silencer**” as used in **this chapter** means any device or attachment of any kind designed, used, or intended for use in silencing, diminishing, or muffling the report of a firearm. The term “**silencer**” also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in such assembly or fabrication.

10

Penal Code § 12501. Limitations on application of silencer laws

11

12501. **Section 12520** shall not apply to, or affect, any of the following:

12

(a) The sale to, purchase by, or possession of silencers by agencies listed in **Section 830.1**, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

15

(b) The possession of silencers by regular, salaried, full-time peace officers who are employed by an agency listed in **Section 830.1**, or by the military or naval forces of this state or of the United States when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

20

(c) The manufacture, possession, transportation, or sale or other transfer of silencers to an entity described in **subdivision (a)** by dealers or manufacturers registered under **Chapter 53 (commencing with Section 5801)** of Title 26 of the **United States Code**, and the regulations issued pursuant thereto.

24

Article 2. Unlawful Possession of Firearm Silencers

25

Penal Code § 12520. Unlawful possession of silencer

26

12520. Any person, firm, or corporation who within this state possesses a silencer is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed ten thousand dollars (\$10,000) or by both.

30

CHAPTER 6. MISCELLANEOUS

31

Article 1. BB Devices and Imitation Firearms

32

Penal Code § 12550. Definitions

33

12550. As used in **this article**, the following definitions apply:

1 (a) **“BB device”** is defined in subdivision (g) of Section 12001.

2 (b) **“Firearm”** is defined in subdivision (b) of Section 12001.

3 (c) **“Imitation firearm”** means any BB device, toy gun, replica of a firearm, or
4 other device that is so substantially similar in coloration and overall appearance to
5 an existing firearm as to lead a reasonable person to perceive that the device is a
6 firearm.

7 **Penal Code § 12551. Prohibition against sale of BB device to minor**

8 12551. Every person who sells to a minor any BB device is guilty of a
9 misdemeanor.

10 **Penal Code § 12552. Prohibition against furnishing BB device to minor without parental
11 permission**

12 12552. (a) Every person who furnishes any BB device to any minor, without the
13 express or implied permission of the parent or legal guardian of the minor, is
14 guilty of a misdemeanor.

15 (b) As used in this section, **“furnishes”** means any of the following:

16 (1) A loan.

17 (2) A transfer that does not involve a sale.

18 **Penal Code § 12553. Failure to comply with laws governing appearance of imitation firearm
19 or specified devices**

20 12553. (a)(1) Any person who changes, alters, removes, or obliterates any
21 coloration or markings that are required by any applicable state or federal law or
22 regulation, for any imitation firearm, or device described in subdivision (c) of
23 Section 12555, in any way that makes the imitation firearm or device look more
24 like a firearm is guilty of a misdemeanor.

25 (2) This subdivision shall not apply to a manufacturer, importer, or distributor of
26 imitation firearms or to the lawful use in theatrical productions, including motion
27 pictures, television, and stage productions.

28 (b) Any manufacturer, importer, or distributor of imitation firearms that fails to
29 comply with any applicable federal law or regulation governing the marking of a
30 toy, look-alike or imitation firearm as defined by federal law or regulation is guilty
31 of a misdemeanor.

32 **Penal Code § 12554. Advisory requirement for imitation firearm**

33 12554. (a) Any imitation firearm manufactured after July 1, 2005, shall, at the
34 time of offer for sale in this state, be accompanied by a conspicuous advisory in
35 writing as part of the packaging, but not necessarily affixed to the imitation
36 firearm, to the effect that the product may be mistaken for a firearm by law
37 enforcement officers or others, that altering the coloration or markings required by
38 state or federal law or regulations so as to make the product look more like a

1 firearm is dangerous, and may be a crime, and that brandishing or displaying the
2 product in public may cause confusion and may be a crime.

3 (b) Any manufacturer, importer, or distributor that fails to comply with this
4 advisory for any imitation firearm manufactured after July 1, 2005, shall be liable
5 for a civil fine for each action brought by a city attorney or district attorney of not
6 more than one thousand dollars (\$1,000) for the first action, five thousand dollars
7 (\$5,000) for the second action, and ten thousand dollars (\$10,000) for the third
8 action and each subsequent action.

9 **Penal Code § 12555. Unlawful commercial activities relating to imitation firearms**

10 12555. (a) Any person who, for commercial purposes, purchases, sells,
11 manufactures, ships, transports, distributes, or receives, by mail order or in any
12 other manner, an imitation firearm except as authorized by **this section** shall be
13 liable for a civil fine in an action brought by the city attorney or the district
14 attorney of not more than ten thousand dollars (\$10,000) for each violation.

15 (b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt,
16 by mail or in any other manner, of imitation firearms is authorized if the device is
17 manufactured, purchased, sold, shipped, transported, distributed, or received for
18 any of the following purposes:

19 (1) Solely for export in interstate or foreign commerce.

20 (2) Solely for lawful use in theatrical productions, including motion picture,
21 television, and stage productions.

22 (3) For use in a certified or regulated sporting event or competition.

23 (4) For use in military or civil defense activities, or ceremonial activities.

24 (5) For public displays authorized by public or private schools.

25 (c) As used in **this section**, **“imitation firearm”** does not include any of the
26 following:

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

29 (2) A BB device, as defined in **subdivision (g) of Section 12001**.

30 (3) A device where the entire exterior surface of the device is white, bright red,
31 bright orange, bright yellow, bright green, bright blue, bright pink, or bright
32 purple, either singly or as the predominant color in combination with other colors
33 in any pattern, as provided by federal regulations governing imitation firearms, or
34 where the entire device is constructed of transparent or translucent materials which
35 permits unmistakable observation of the device’s complete contents, as provided
36 by federal regulations governing imitation firearms.

37 **Penal Code § 12556. Display of imitation firearm in public place**

38 12556. (a) No person may openly display or expose any imitation firearm, as
39 defined in **Section 12550**, in a public place.

1 (b) Violation of **this section**, except as provided in **subdivision (c)**, is an
2 infraction punishable by a fine of one hundred dollars (\$100) for the first offense,
3 and three hundred dollars (\$300) for a second offense.

4 (c) A third or subsequent violation of **this section** is punishable as a
5 misdemeanor.

6 (d) **Subdivision (a)** shall not apply to the following, when the imitation firearm
7 is:

8 (1) Packaged or concealed so that it is not subject to public viewing.

9 (2) Displayed or exposed in the course of commerce, including commercial film
10 or video productions, or for service, repair, or restoration of the imitation firearm.

11 (3) Used in a theatrical production, a motion picture, video, television, or stage
12 production.

13 (4) Used in conjunction with a certified or regulated sporting event or
14 competition.

15 (5) Used in conjunction with lawful hunting, or lawful pest control activities.

16 (6) Used or possessed at certified or regulated public or private shooting ranges.

17 (7) Used at fairs, exhibitions, expositions, or other similar activities for which a
18 permit has been obtained from a local or state government.

19 (8) Used in military, civil defense, or civic activities, including flag ceremonies,
20 color guards, parades, award presentations, historical reenactments, and
21 memorials.

22 (9) Used for public displays authorized by public or private schools or displays
23 that are part of a museum collection.

24 (10) Used in parades, ceremonies, or other similar activities for which a permit
25 has been obtained from a local or state government.

26 (11) Displayed on a wall plaque or in a presentation case.

27 (12) Used in areas where the discharge of a firearm is lawful.

28 (13) A device where the entire exterior surface of the device is white, bright red,
29 bright orange, bright yellow, bright green, bright blue, bright pink, or bright
30 purple, either singly or as the predominant color in combination with other colors
31 in any pattern, or where the entire device is constructed of transparent or
32 translucent materials which permits unmistakable observation of the device's
33 complete contents. Merely having an orange tip as provided in federal law and
34 regulations does not satisfy this requirement. The entire surface must be colored or
35 transparent or translucent.

36 (e) For purposes of **this section**, the term **“public place”** means an area open to
37 the public and includes streets, sidewalks, bridges, alleys, plazas, parks,
38 driveways, front yards, parking lots, automobiles, whether moving or not, and
39 buildings open to the general public, including those that serve food or drink, or
40 provide entertainment, and the doorways and entrances to buildings or dwellings,
41 and shall include public schools and a public or private college or university.

42 (f) Nothing in **this section** shall be construed to preclude prosecution for a
43 violation of **Section 171b, 171.5, or 626.10**.

1 **Staff Note.** The text of this provision reflects an amendment made by AB 2470 (Karnette),
2 which incorporates revisions made by AB 352 (Solorio). See 2008 Cal. Stat. ch. 676, §§ 2.5, 4.

3 Article 4. Blowguns

4 **Penal Code § 12580. “Blowgun”**

5 12580. **“Blowgun,”** as used in this article, means a hollow tube designed and
6 intended to be used as a tube through which a dart is propelled by the force of the
7 breath of the user.

8 **Penal Code § 12581. “Blowgun ammunition”**

9 12581. **“Blowgun ammunition,”** as used in this article, means a dart designed
10 and intended for use in a blowgun.

11 **Penal Code § 12582. Unlawful acts relating to blowguns or blowgun ammunition**

12 12582. Any person who knowingly manufactures, sells, offers for sale,
13 possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a
14 misdemeanor.

15 **Penal Code § 12583. Use of blowgun or blowgun ammunition by veterinarian or animal
16 control professional**

17 12583. Nothing in this article shall prohibit the sale to, purchase by, possession
18 of, or use of blowguns or blowgun ammunition by zookeepers, animal control
19 officers, Department of Fish and Game personnel, humane officers whose names
20 are maintained in the county record of humane officers pursuant to Section 14502
21 of the Corporations Code, or veterinarians in the course and scope of their
22 business in order to administer medicine to animals.

23 Article 5. Picketing

24 **Penal Code § 12590. Picketing with deadly weapon or in uniform of peace officer**

25 12590. (a) Any person who does any of the following acts while engaged in
26 picketing, or other informational activities in a public place relating to a concerted
27 refusal to work, is guilty of a misdemeanor:

28 (1) Carries concealed upon his person or within any vehicle which is under his
29 or her control or direction any pistol, revolver, or other firearm capable of being
30 concealed upon the person.

31 (2) Carries a loaded firearm upon his or her person or within any vehicle which
32 is under his or her control or direction.

33 (3) Carries a deadly weapon.

34 (4) Wears the uniform of a peace officer, whether or not the person is a peace
35 officer.

1 (b) This section shall not be construed to authorize or ratify any picketing or
2 other informational activities not otherwise authorized by law.

3 (c) Section 12027 shall not be construed to authorize any conduct described in
4 paragraph (1) of subdivision (a), nor shall subdivision (b) of Section 12031 be
5 construed to authorize any conduct described in paragraph (2) of subdivision (a).

6 Article 6. Less Lethal Weapons

7 **Penal Code § 12600. Less lethal weapon or ammunition for official use by peace officer or**
8 **custodial officer**

9 12600. A person who is a peace officer or a custodial officer as defined in
10 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 may if authorized
11 by and under the terms and conditions as are specified by his or her employing
12 agency purchase, possess, or transport any less lethal weapon or ammunition
13 therefor, for official use in the discharge of his or her duties.

14 **Penal Code § 12601. “Less lethal weapon” and “less lethal ammunition”**

15 12601. (a) “**Less lethal weapon**” means any device that is designed to or that
16 has been converted to expel or propel less lethal ammunition by any action,
17 mechanism, or process for the purpose of incapacitating, immobilizing, or
18 stunning a human being through the infliction of any less than lethal impairment
19 of physical condition, function, or senses, including physical pain or discomfort. It
20 is not necessary that a weapon leave any lasting or permanent incapacitation,
21 discomfort, pain, or other injury or disability in order to qualify as a less lethal
22 weapon.

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

26 (1) Pistol, revolver, or firearm as defined in Section 12001.

27 (2) Machinegun as defined in Section 12200.

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

30 (4) Pistols, rifles, and shotguns that are firearms having a barrel less than 0.18
31 inches in diameter and that are designed to expel a projectile by any mechanical
32 means or by compressed air or gas.

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

36 (6) A destructive device as defined in Section 12301.

37 (7) A tear gas weapon as defined in Section 12402.

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

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

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

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

4 (12) An assault weapon as defined in Section 12276 or 12276.1.

5 (c) **“Less lethal ammunition”** means any ammunition that (1) is designed to be
6 used in any less lethal weapon or any other kind of weapon (including, but not
7 limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air,
8 and compressed gas weapons) and (2) when used in the less lethal weapon or other
9 weapon is designed to immobilize or incapacitate or stun a human being through
10 the infliction of any less than lethal impairment of physical condition, function, or
11 senses, including physical pain or discomfort.

12 Article 7. Stun Guns

13 Penal Code § 12650. “Stun gun”

14 12650. **“Stun gun”** as used in this chapter shall include any item, except a taser,
15 used or intended to be used as either an offensive or defensive weapon capable of
16 temporarily immobilizing a person by the infliction of an electrical charge.

17 Penal Code § 12651. Unlawful acts relating to stun guns

18 12651. Notwithstanding any other provision of law, any person may purchase,
19 possess, or use a stun gun, subject to the following requirements:

20 (a) No person convicted of a felony or any crime involving an assault under the
21 laws of the United States, of the State of California, or any other state,
22 government, or country or convicted of misuse of a stun gun under Section 244.5,
23 shall purchase, possess, or use stun guns.

24 (b) No person who is addicted to any narcotic drug shall purchase, possess, or
25 use a stun gun.

26 (c) No person shall sell or furnish any stun gun to a minor unless the minor is at
27 least 16 years of age and has the written consent of his or her parent or legal
28 guardian.

29 Violation of this subdivision shall be a public offense punishable by a fifty
30 dollar (\$50) fine for the first offense. Any subsequent violation of this subdivision
31 is a misdemeanor.

32 (d) No minor shall possess any stun gun unless the minor is at least 16 years of
33 age and has the written consent of his or her parent or legal guardian.

34 Penal Code § 12652. Serial number and name of manufacturer

35 12652. Each stun gun sold shall contain both of the following:

36 (a) The name of the manufacturer stamped on the stun gun.

37 (b) The serial number applied by the manufacturer.

1 **Penal Code § 12653. Violation punishable as misdemeanor**

2 12653. Unless otherwise specified, any violation of **this article** is a
3 misdemeanor.

4 **Penal Code § 12654. Instruction booklet for stun gun**

5 12654. Each stun gun sold in this state shall be accompanied by an instruction
6 booklet.

7 Violation of **this section** shall be a public offense punishable by a fifty dollar
8 (\$50) fine for each weapon sold without the booklet.

9 **Penal Code § 12655. Punishment for sale of less lethal weapon to person under age 18**

10 12655. Any person who sells a less lethal weapon, as defined in Section 12601,
11 to a person under the age of 18 years is guilty of a misdemeanor, punishable by
12 imprisonment in the county jail for up to six months or by a fine of not more than
13 one thousand dollars (\$1,000), or by both that imprisonment and fine.

14 **Staff Note.** This provision was added by AB 2973 (Soto), which was enacted as 2008 Cal.
15 Stat. ch. 556.

16 **Article 8. Handgun Safety Certificate**

17 **Penal Code § 12800. Intent of Legislature**

18 12800. It is the intent of the Legislature in enacting **this article** to require that
19 persons who obtain handguns have a basic familiarity with those firearms,
20 including, but not limited to, the safe handling and storage of those firearms. It is
21 not the intent of the Legislature to require a handgun safety certificate for the mere
22 possession of a firearm.

23 **Penal Code § 12801. Definitions and handgun safety certificate requirement**

24 12801. (a) As used in **this article**, the following definitions shall apply:

25 (1) **“Department”** means the Department of Justice.

26 (2) **“DOJ Certified Instructor”** or **“certified instructor”** means a person
27 designated as a handgun safety instructor by the Department of Justice pursuant to
28 **subdivision (d) of Section 12804**.

29 (b) No person shall do either of the following:

30 (1) Purchase or receive any handgun, except an antique firearm, as defined in
31 **paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States**
32 **Code**, without a valid handgun safety certificate.

33 (2) Sell, deliver, loan, or transfer any handgun, except an antique firearm, as
34 defined in **paragraph (16) of subsection (a) of Section 921 of Title 18 of the United**
35 **States Code**, to any person who does not have a valid handgun safety certificate.

36 (c) Any person who violates **subdivision (b)** is guilty of a misdemeanor.

37 (d) The provisions of **this section** are cumulative, and shall not be construed as
38 restricting the application of any other law. However, an act or omission

1 punishable in different ways by different provisions of this code shall not be
2 punished under more than one provision.

3 **Penal Code § 12802. Collusion or alteration, counterfeiting, or falsification of handgun**
4 **safety certificate**

5 12802. (a) No person may commit an act of collusion as specified in **Section**
6 **12072**.

7 (b) Any person who alters, counterfeits, or falsifies a handgun safety certificate,
8 or who uses or attempts to use any altered, counterfeited, or falsified handgun
9 safety certificate to purchase a handgun is guilty of a misdemeanor.

10 (c) The provisions of **this section** are cumulative and shall not be construed as
11 restricting the application of any other law. However, an act or omission
12 punishable in different ways by **this section** and different provisions of this code
13 shall not be punished under more than one provision.

14 **Penal Code § 12803. Restrictions on issuance of handgun safety certificate by certified**
15 **instructor**

16 12803. (a) No certified instructor may issue a handgun safety certificate to any
17 person who has not complied with **this article**. Proof of compliance shall be
18 forwarded to the department by certified instructors as frequently as the
19 department may determine.

20 (b) No certified instructor may issue a handgun safety certificate to any person
21 who is under 18 years of age.

22 (c) A violation of **this section** shall be grounds for the department to revoke the
23 instructor's certification to issue handgun safety certificates.

24 **Penal Code § 12804. Duties of Department of Justice relating to handgun safety certificate**

25 12804. (a) The department shall develop an instruction manual in English and in
26 Spanish by October 1, 2002. The department shall make the instructional manual
27 available to firearms dealers licensed pursuant to **Section 12071**, who shall make it
28 available to the general public. Essential portions of the manual may be included
29 in the pamphlet described in **Section 12080**.

30 (b) The department shall develop audiovisual materials in English and in
31 Spanish by March 1, 2003, to be issued to instructors certified by the department.

32 (c)(1) The department shall develop a written objective test, in English and in
33 Spanish, and prescribe its content, form, and manner, to be administered by an
34 instructor certified by the department. If the person taking the test is unable to
35 read, the examination shall be administered orally. The test shall cover, but not be
36 limited to, all of the following:

37 (A) The laws applicable to carrying and handling firearms, particularly
38 handguns.

39 (B) The responsibilities of ownership of firearms, particularly handguns.

40 (C) Current law as it relates to the private sale and transfer of firearms.

- 1 (D) Current law as it relates to the permissible use of lethal force.
- 2 (E) What constitutes safe firearm storage.
- 3 (F) Issues associated with bringing a handgun into the home.
- 4 (G) Prevention strategies to address issues associated with bringing firearms into
5 the home.
- 6 (2) If the person taking the test is unable to read English or Spanish, the test may
7 be applied orally by a translator.
- 8 (d) The department shall prescribe a minimum level of skill, knowledge and
9 competency to be required of all handgun safety certificate instructors.
- 10 (e) If a dealer licensed pursuant to Section 12071 or his or her employee, or
11 where the managing officer or partner is certified as an instructor pursuant to this
12 article, he or she shall also designate a separate room or partitioned area for a
13 person to take the objective test, and maintain adequate supervision to assure that
14 no acts of collusion occur while the objective test is being administered.
- 15 (f) The department shall solicit input from any reputable association or
16 organization, including any law enforcement association that has as one of its
17 objectives the promotion of firearms safety, in the development of the handgun
18 safety certificate instructional materials.
- 19 (g) The department shall develop handgun safety certificates to be issued by
20 instructors certified by the department, to those persons who have complied with
21 this article.
- 22 (h) The department shall be immune from any liability arising from
23 implementing this section.
- 24 (i) The department shall update test materials related to this article every five
25 years.
- 26 (j) Department Certified Instructor applicants shall have a certification to
27 provide training from one of the following organizations as specified, or any entity
28 found by the department to give comparable instruction in firearms safety, or the
29 applicant shall have similar or equivalent training to that provided by the
30 following, as determined by the department:
- 31 (1) Department of Consumer Affairs, State of California-Firearm Training
32 Instructor.
- 33 (2) Director of Civilian Marksmanship, Instructor or Rangemaster.
- 34 (3) Federal Government, Certified Rangemaster or Firearm Instructor.
- 35 (4) Federal Law Enforcement Training Center, Firearm Instructor Training
36 Program or Rangemaster.
- 37 (5) United States Military, Military Occupational Specialty (MOS) as
38 marksmanship or firearms instructor. Assignment as Range Officer or Safety
39 Officer are not sufficient.
- 40 (6) National Rifle Association-Certified Instructor, Law Enforcement Instructor,
41 Rangemaster, or Training Counselor.
- 42 (7) Commission on Peace Officer Standards and Training (POST), State of
43 California-Firearm Instructor or Rangemaster.

1 (8) Authorization from a State of California accredited school to teach a firearm
2 training course.

3 **Penal Code § 12805. Test procedure and fees**

4 12805. (a) An applicant for a handgun safety certificate shall successfully pass
5 the objective test referred to in paragraph (1) of subdivision (c) of Section 12804,
6 with a passing grade of at least 75 percent. Any person receiving a passing grade
7 on the objective test shall immediately be issued a handgun safety certificate by
8 the instructor.

9 (b) An applicant who fails to pass the objective test upon the first attempt shall
10 be offered additional instructional materials by the instructor such as a videotape
11 or booklet. The person may not retake the objective test under any circumstances
12 until 24 hours have elapsed after the failure to pass the objective test upon the first
13 attempt. The person failing the test on the first attempt shall take another version
14 of the test upon the second attempt. All tests shall be taken from the same
15 instructor except upon permission by the department, which shall be granted only
16 for good cause shown. The instructor shall make himself or herself available to the
17 applicant during regular business hours in order to retake the test.

18 (c) The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen
19 dollars (\$15) of which is to be paid to the department pursuant to subdivision (e).

20 (d) An applicant to renew a handgun safety certificate shall be required to pass
21 the objective test. The certified instructor may charge a fee of twenty-five dollars
22 (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant
23 to subdivision (e).

24 (e) The department may charge the certified instructor up to fifteen dollars (\$15)
25 for each handgun safety certificate issued by that instructor to cover the
26 department's cost in carrying out and enforcing this article, and enforcing this title,
27 as determined annually by the department.

28 (f) All money received by the department pursuant to this article shall be
29 deposited into the Firearms Safety and Enforcement Special Fund created pursuant
30 to Section 12076.5.

31 (g) The department shall conduct enforcement activities, including, but not
32 limited to, law enforcement activities to ensure compliance with Title 2
33 (commencing with Section 12000) of Part 4.

34 **Penal Code § 12806. Content of handgun safety certificate**

35 12806. (a) A handgun safety certificate shall include, but not be limited to, the
36 following information:

- 37 (1) A unique handgun safety certificate identification number.
- 38 (2) The holder's full name.
- 39 (3) The holder's date of birth.
- 40 (4) The holder's driver's license or identification number.
- 41 (5) The holder's signature.

- 1 (6) The signature of the issuing instructor.
2 (7) The date of issuance.
3 (b) The handgun safety certificate shall expire five years after the date that it
4 was issued by the certified instructor.

5 **Penal Code § 12807. Exemptions from handgun safety certificate requirement**

6 12807. (a) The following persons, properly identified, are exempted from the
7 handgun safety certificate requirement in subdivision (b) of Section 12801:

8 (1) Any active or honorably retired peace officer, as defined in Chapter 4.5
9 (commencing with Section 830) of Title 3 of Part 2.

10 (2) Any active or honorably retired federal officer or law enforcement agent.

11 (3) Any reserve peace officer, as defined in Section 832.6.

12 (4) Any person who has successfully completed the course of training specified
13 in Section 832.

14 (5) A firearms dealer licensed pursuant to Section 12071, who is acting in the
15 course and scope of his or her activities as a person licensed pursuant to Section
16 12071.

17 (6) A federally licensed collector who is acquiring or being loaned a handgun
18 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of
19 Federal Regulations, who has a current certificate of eligibility issued to him or
20 her by the department pursuant to Section 12071.

21 (7) A person to whom a handgun is being returned, where the person receiving
22 the firearm is the owner of the firearm.

23 (8) A family member of a peace officer or deputy sheriff from a local agency
24 who receives a firearm pursuant to Section 50081 of the Government Code.

25 (9) Any individual who has a valid concealed weapons permit issued pursuant to
26 Section 12050.

27 (10) An active, or honorably retired member of the United States Armed Forces,
28 the National Guard, the Air National Guard, the active reserve components of the
29 United States, where individuals in those organizations are properly identified. For
30 purposes of this section, proper identification includes the Armed Forces
31 Identification Card, or other written documentation certifying that the individual is
32 an active or honorably retired member.

33 (11) Any person who is authorized to carry loaded firearms pursuant to
34 subdivision (c) or (d) of Section 12031.

35 (12) Persons who are the holders of a special weapons permit issued by the
36 department pursuant to Section 12095, 12230, 12250, or 12305.

37 (b) The following persons who take title or possession of a handgun by
38 operation of law in a representative capacity, until or unless they transfer title
39 ownership of the handgun to themselves in a personal capacity, are exempted from
40 the handgun safety certificate requirement in subdivision (b) of Section 12801:

41 (1) The executor or administrator of an estate.

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

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

7 (4) A receiver performing his or her functions as a receiver.

8 (5) A trustee in bankruptcy performing his or her duties.

9 (6) An assignee for the benefit of creditors performing his or her functions as an
10 assignee.

11 **Penal Code § 12808. Duplicate certificate**

12 12808. (a) In the case of loss or destruction of a handgun safety certificate, the
13 issuing instructor shall issue a duplicate certificate upon request and proof of
14 identification to the certificate holder.

15 (b) The department may authorize the issuing instructor to charge a fee not to
16 exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee
17 shall be deposited in the Firearms Safety and Enforcement Special Fund, created
18 pursuant to Section 12076.5.

19 **Penal Code § 12809. Operative date**

20 12809. Except for the provisions of Section 12804, this article shall become
21 operative on January 1, 2003.