

Memorandum 2013-24

Deadly Weapons: Minor Clean-Up Issues

The Commission's recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes* includes a list of "Minor Clean-Up Issues for Possible Future Legislative Attention." See 38 Cal. L. Revision Comm'n Reports 217, 265-80 (2009). The Commission has previously considered six memoranda addressing different items on the clean-up list. The attached draft tentative recommendation addresses many of the clean-up issues previously brought before and approved by the Commission.

Except as otherwise indicated, all statutory references in this memorandum are to the Penal Code. In general, this memorandum refers to the reorganized "new" Penal Code sections, rather than the "old" sections referenced in the recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*.

CONTENTS OF DRAFT TENTATIVE RECOMMENDATION

The attached draft tentative recommendation addresses many of the clean-up items previously approved for incorporation into a tentative recommendation by the Commission. See Memorandum 2011-14 (definition of "application to purchase"); Memorandum 2013-17 (definitions of "firearm safety device" and "locked container"); and Memorandum 2013-18 (definitions of "short-barreled rifle" and "short-barreled shotgun"); see also Minutes (April 2011), p. 5 and Minutes (April 2013), p. 11. Several items previously approved by the Commission were set aside to address in a later tentative recommendation, as staff determined that these items would either be affected significantly by pending legislation or should be addressed in tandem with other closely related items on the clean-up list. See, e.g., Memorandum 2011-15 (definition of "licensed

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

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

premises”), which is related to the definition of “licensee” discussed in Items 20 and 30 on the clean-up list (38 Cal. L. Revision Comm’n Reports at 269, 270).

The attached draft tentative recommendation also includes proposed changes to standardize the references to the “federal Bureau of Alcohol, Tobacco, Firearms, and Explosives” discussed in Memorandum 2011-13. *See* Minutes (April 2011), p. 5. The Commission originally decided that these changes should be recommended for inclusion in the maintenance of the codes bill, but that has not yet been done. Given the straightforward nature of these changes and the availability of this draft tentative recommendation as a vehicle for such changes, staff has included the changes in the attached draft tentative recommendation.

In addition to the items previously reviewed by the Commission, the tentative recommendation includes language implementing clean-up Item #26, which the Commission has not considered. Staff seeks the Commission’s approval to include this language in the tentative recommendation. The analysis for this item is set forth below.

CLEAN-UP ITEM #26: STANDARDIZING THE REFERENCES TO
“FACILITIES MANAGER” AND “FACILITY’S MANAGER”

Item #26 on the clean-up list is: “Consider whether to standardize the references to ‘facilities manager’ and ‘facility’s manager’ in Penal Code Section 12071.1.” The material previously in Penal Code Section 12071.1 is now found in Penal Code Section 27210.

Section 27210 requires the preparation of an annual event and security plan and schedule for gun shows and events. This section specifies what information must be included in the plan, who must be provided with the plan, when changes to the plan must be submitted, and the need for approval of that plan by the facility’s manager.

In setting forth these requirements, Section 27210 refers to a “facility manager,” “facilities manager,” and “facility’s manager.” A review of this section in context suggests that these terms were used interchangeably to refer to the same person and should be standardized, as the code provides no definition for these terms and none of these terms are used elsewhere in the code. Further, reading the language of Section 27210, it seems almost certain that the terms all refer to the same person.

Penal Code Section 27210 is reproduced in full below with the terms at issue in bold:

27210. (a) The producer and **facility manager** of a gun show or event shall prepare an annual event and security plan and schedule that shall include, at a minimum, the following information for each show or event:

(1) The type of show or event including, but not limited to, antique or general firearms.

(2) The estimated number of vendors offering firearms for sale or display.

(3) The estimated number of attendees.

(4) The number of entrances and exits at the gun show or event site.

(5) The location, dates, and times of the show or event.

(6) The contact person and telephone number for both the producer and the facility.

(7) The number of sworn peace officers employed by the producer or the **facilities manager** who will be present at the show or event.

(8) The number of nonsworn security personnel employed by the producer or the **facility's manager** who will be present at the show or event.

(b) The annual event and security plan shall be submitted by either the producer or the **facility's manager** to the Department of Justice and the law enforcement agency with jurisdiction over the facility.

(c) If significant changes have been made since the annual plan was submitted, the producer shall, not later than 15 days before commencement of the gun show or event, submit to the department, the law enforcement agency with jurisdiction over the facility site, and the **facility's manager**, a revised event and security plan, including a revised list of vendors that the producer knows, or reasonably should know, will be renting tables, space, or otherwise participating in the gun show or event.

(d) The event and security plan shall be approved by the **facility's manager** before the event or show, after consultation with the law enforcement agency with jurisdiction over the facility.

(e) No gun show or event shall commence unless the requirements of subdivisions (b), (c), and (d) are met.

Based on staff's review of this section, we determined that it would be appropriate to standardize the references in bold so that they all refer to the "facility's manager." Staff has included language implementing this change in the attached draft tentative recommendation. **Does the Commission agree with including this change in the tentative recommendation?**

COMMISSION DECISION ON DRAFT TENTATIVE RECOMMENDATION

The Commission needs to decide whether to approve the draft as a tentative recommendation (as is, or with revisions) to post to its website and circulate for comment.

Respectfully submitted,

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CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

TENTATIVE RECOMMENDATION

Deadly Weapons: Minor Clean-Up Issues

June 2013

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN _____.

The Commission will often substantially revise a proposal in response to comment it receives. Thus this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

In June 2009, the Commission completed a recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*. The Legislature implemented the recommendation through its enactment of Chapters 178 and 711 of the Statutes of 2010. This legislation became operative on January 1, 2012.

Throughout its deadly weapons study, the Commission took extreme care to avoid making any substantive change. In the course of the study, the Commission identified a number of minor problems that could not be addressed without potentially causing concern about the possibility of such a change. These clean-up issues were not addressed in the June 2009 recommendation, but were instead identified and set aside for future work.

This tentative recommendation proposes amendments to address a handful of the minor clean-up issues. Specifically, the revisions contained in this recommendation address:

- (1) Expansion of the scope of certain definitions to cover the entirety of Part 6 of the Penal Code.
- (2) Standardizing references to organizations and persons.

This recommendation was prepared pursuant to Section 7 of Chapter 711 of the Statutes of 2010.

DEADLY WEAPONS: MINOR CLEAN-UP ISSUES

1 In 2006, the Legislature directed the Law Revision Commission to conduct a
2 study and recommend nonsubstantive changes to the statutes relating to control of
3 deadly weapons to simplify and provide better organization to this area of law.¹
4 The Commission was expressly directed not to make any change that would affect
5 the existing scope of criminal liability.²

6 In June 2009, the Commission submitted its recommendation on *Nonsubstantive*
7 *Reorganization of Deadly Weapons Statutes* (“Deadly Weapons
8 Recommendation”)³ to the Legislature. In 2010, the recommendation was enacted,
9 reorganizing the deadly weapons statutes into a new Part 6 of the Penal Code,⁴
10 structuring the provisions in a more user-friendly form and making conforming
11 revisions to the law.⁵

12 Throughout its deadly weapons study, the Commission took an extremely
13 cautious approach, to avoid making any substantive change. During the course of
14 the study, the Commission found a number of minor issues that could not be
15 addressed without potentially causing concern about the possibility of such a
16 change. Consistent with the Commission’s limited mandate, the Commission did
17 not address any of these minor issues in its Deadly Weapons Recommendation.

18 Instead, these minor issues were listed in Appendix B of the Deadly Weapons
19 Recommendation and set aside for possible future work. In the Deadly Weapons
20 Recommendation, the Commission requested authority to study these clean-up
21 issues.

22 The Legislature granted the Commission authority to study and make
23 recommendations on the issues identified in Appendix B.⁶ Pursuant to that
24 authority, the Law Revision Commission now recommends minor clean-up
25 amendments to address some of the issues identified in Appendix B of the Deadly
26 Weapons Recommendation.

27 The Commission recognizes that deadly weapons issues are addressed in many
28 pending bills and will continue to monitor the legislative activity in this area. The
29 Commission will adjust its recommendation as appropriate to account for any bills
30 that are enacted.

1. ACR 73 (McCarthy), 2006 Cal. Stat. res. ch. 128.

2. *Id.*

3. *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm’n Reports 217 (2009).

4. All references contained herein are to the Penal Code unless otherwise noted.

5. SB 1080 (Committee on Public Safety), 2010 Cal. Stat. ch. 711; SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178.

6. 2010 Cal. Stat. ch. 711, § 7 (SB 1080 (Committee on Public Safety)).

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DEFINITIONS WITH LIMITED APPLICATION

Part 6 contains a number of statutory definitions that have expressly limited application. These definitions only govern specified provisions. For example, Section 16540 defines the term “firearm safety device,” but only for uses of that term in Division 2 (commencing with Section 23620) of Title 4 of Part 6.

Part 6 also contains a number of sections that use a defined term *but are not within the provisions governed by the statutory definition*. For example, Section 26850 uses the term “firearm safety device,” but this section is not governed by the definition of that term provided in Section 16540.

Undefined usage of defined terms can cause confusion. When a definition does not govern all uses of the defined term, it is not clear whether the term was intended to have a different meaning in provisions that are not governed by the definition. It is also possible that the failure to expand a definition’s application to cover a particular provision using the term was inadvertent.

In order to address that confusion, the Commission examined the undefined uses of the following defined terms: “application to purchase,” “firearm safety device,” “locked container,” “short-barreled rifle,” and “short-barreled shotgun.” In each case, the Commission found that in *every* provision of Part 6 that is not governed by the definitions, the terms were nonetheless used in the defined sense.

Because the defined meanings are consistent with every undefined use of the terms, the Commission recommends that the definitions be generalized to govern the entirety of Part 6. This would eliminate any confusion as to the meaning of the terms in sections that are not governed by the definitions. It would also simplify future development of the law, by providing a default definition that would govern any new provision added to Part 6.

The Commission’s specific findings are summarized below.

“Application to Purchase”

Section 16190 defines “application to purchase.”⁷

The Commission has reviewed the undefined uses of this term in Part 6.⁸ Each of those sections relates to the process by which a prospective firearm recipient provides initial information to a firearms dealer, who then transmits the information to the Department of Justice. Further, each of these sections involves timing rules specifying when the dealer must transmit information to the

7. As defined, the “application to purchase” covers a procedural step in a firearm transaction wherein the purchaser, transferee, or person being loaned a firearm provides certain information to a firearm dealer. Section 16190 provides the only definition for “application to purchase” in the Penal Code.

8. Sections 26955, 26960, 26965, 27655, 27660, 27665, 28210, and 28215.

1 Department of Justice.⁹ The sections appear to be part of an integrated process
2 governing firearm transfers.

3 There is nothing that would indicate an alternative meaning of “application to
4 purchase” for these sections. Rather, these sections and the sections covered by the
5 definition all seem to be using the term “application to purchase” in the same way,
6 referring to the initial information exchange required to acquire a firearm.

7 All of the undefined uses of the term “application to purchase” appear to be
8 using the term with the meaning provided in the statutory definition. Therefore,
9 the Commission recommends that the definition be generalized to cover the whole
10 of Part 6 of the Penal Code.

11 **“Firearm Safety Device”**

12 Section 16540 defines “firearm safety device.”¹⁰

13 The Commission has reviewed the undefined uses of this term in Part 6.¹¹ As
14 discussed below, all of the undefined uses of the term “firearm safety device”
15 appear to be using the term with the meaning provided in the statutory definition.
16 Therefore, the Commission recommends that the definition be generalized to
17 cover the whole of Part 6 of the Penal Code.

18 ***Safe Handling Demonstration***

19 Four of the sections that use the term “firearm safety device” without
20 definition¹² relate to the safe handling demonstration that a person must perform
21 before a firearms dealer may deliver a handgun to the person.¹³ As part of the safe
22 handling demonstration, the recipient must perform specified operations involving
23 the “firearm safety device” that is “required to be delivered” with the handgun.¹⁴

9. For example, Section 26955(b) states: “[w]ithin two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28160 or 28165, as applicable.”

10. As defined, a “firearm safety device” is a device, aside from a gun safe, that locks and is designed to prevent unauthorized users from firing a firearm. Section 16540 provides the only definition for “firearm safety device” in the Penal Code.

11. Sections 26850, 26853, 26856, 26859, and 26915.

12. Sections 26850, 26853, 26856, and 26859.

13. Section 26850(a).

14. Section 26850(b). The general procedure provided in Section 26850(b) incorporates certain weapon-specific procedures by reference. Those special procedures are detailed in Sections 26853, 26856, and 26859. One of those weapon-specific provisions uses slightly different language than the main procedural provision, referring to the “firearm safety device required to be *sold* with the handgun.” Section 26859(c) (emphasis added). The Commission does not believe that difference to be material. Sections 26850(b) and 26859 both appear to be referring to the firearm safety device that must be provided to a recipient by a firearm dealer.

1 The Penal Code has only one provision, Section 23635, that requires a firearms
2 dealer to provide a firearm safety device to the recipient of a handgun.¹⁵ Therefore,
3 it seems clear that the device referenced in the safe handling demonstration
4 provisions is the same “firearm safety device” referenced in Section 23635. The
5 definition of “firearm safety device” applies to Section 23635. Consequently, this
6 definition should also apply to the safe handling demonstration provisions that
7 refer to the same device.

8 ***Secured Firearm***

9 Section 26915 provides that a firearm is “secure” if it is “inoperable because it is
10 secured by a firearm safety device listed on the department’s roster of approved
11 firearm safety devices pursuant to subdivision (d) of Section 23655.”

12 Section 23655 is governed by the definition of “firearm safety device” in
13 Section 16540. It is therefore clear that Section 26915 is using the term with its
14 defined meaning.

15 **“Locked Container”**

16 Section 16850 defines “locked container.”¹⁶ Several provisions that are governed
17 by the definition require that handguns be transported in “locked containers.”¹⁷

18 The Commission has reviewed the undefined uses of this term in Part 6.¹⁸ As
19 discussed below, all of the undefined uses of the term “locked container” appear to
20 be using the term with the meaning provided in the statutory definition. Therefore,
21 the Commission recommends that the definition be generalized to cover the whole
22 of Part 6 of the Penal Code.

15. Section 23635 uses slightly different language from that used in Sections 26850 and 26859. Sections 26850 and 26859 speak of a firearm safety device being “delivered” or “sold” to the recipient. *See supra* note 14. Section 23635 states that the firearm safety device must “accompany” a handgun that is sold or transferred by a firearms dealer to a recipient. The Commission does not believe those terminological differences to be material. In each case, the provisions appear to be referring to a firearm safety device that a firearms dealer must provide to a recipient.

16. As defined, “locked container” means:

A secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device. The term “locked container” does not include the utility or glove compartment of a motor vehicle.

Section 16850 provides the only definition for “locked container” in the Penal Code.

17. *See, e.g.,* Sections 25505 and 25515. Generally, an individual is prohibited from carrying a concealed handgun in any vehicle under the individual’s control. Section 25400. Sections 25505 and 25515 provide exceptions to that general prohibition.

18. Sections 26815, 27540, and 27560. In addition, Section 26835 includes the term “locked container” in form language for warnings that licensed gun dealers are required to post within their premises. However, as form language, this section describes existing law and does not proscribe rules for “locked containers.”

1 ***Firearm Delivery Requirements***

2 Sections 26815 and 27540 require that firearms dealers deliver a firearm
3 unloaded and either “securely wrapped” or in a “locked container.”¹⁹ Logically, it
4 seems that the locked container required in these sections would be the same
5 “locked container” that must be used by the recipient of a handgun when
6 transporting that handgun. As noted, *supra*, the provisions requiring a locked
7 container for handgun transportation are governed by the statutory definition of
8 “locked container.” Thus, it appears that Sections 26815 and 27540 are also using
9 the term with its defined meaning.

10 ***Public Education Program for Personal Firearms Importers***

11 Section 27560 describes the required content of a Department of Justice public
12 education program for personal firearms importers. Among other things, the
13 program must communicate that a “handgun should be transported unloaded and
14 in a locked container...” It seems clear that this is a reference to the substantive
15 provisions requiring that handguns be transported in a “locked container.” Because
16 those transportation provisions are governed by the definition of “locked
17 container,” Section 27560 would also seem to be using the term with its defined
18 meaning.

19 **“Short-Barreled Rifle” and “Short-Barreled Shotgun”**

20 The term “short-barreled rifle” is defined in Section 17170.²⁰ The term “short-
21 barreled shotgun” is defined in Section 17180.²¹ Both terms are analyzed together,

19. Section 26815 identifies grounds for forfeiture of a dealer’s license relating to the delivery of a firearm. Subdivision (b) prohibits dealers from delivering firearms “[u]nless unloaded and securely wrapped or unloaded and in a locked container.” Section 27540 defines crimes relating to the sale, lease, or transfer of firearms. Subdivision (b) similarly prohibits dealers from delivering firearms “[u]nless unloaded and securely wrapped or unloaded and in a locked container.”

20. Section 17170 provides:

“[S]hort-barreled rifle” means any of the following:

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

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

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

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

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

Section 17170 provides the only definition for short-barreled rifle in the Penal Code.

21. Section 17180 provides:

“[S]hort-barreled shotgun” means any of the following:

1 because every section that uses the terms uses both of them in tandem, to regulate
2 both classes of weapons in the same way.

3 The Commission has reviewed the undefined uses of these terms in Part 6.²² As
4 discussed below, all of the undefined uses appear to be using these terms with the
5 meanings provided in the statutory definitions. Therefore, the Commission
6 recommends that the definitions be generalized to cover the whole of Part 6 of the
7 Penal Code.

8 ***Restrictions and Exceptions Applicable to Short-Barreled Rifles and Short-Barreled***
9 ***Shotguns***

10 The Deadly Weapon Recommendation located most of the provisions that
11 govern short-barreled rifles and shotguns in a single chapter, entitled “Short-
12 Barreled Rifle or Short-Barreled Shotgun.”²³ Article 1 of the chapter is governed
13 by the definitions of “short-barreled rifle” and “short-barreled shotgun,” while
14 Article 2 is not.

15 Article 1 establishes restrictions on short-barreled rifles and short-barreled
16 shotguns, subject to specified exceptions. Article 2 provides rules for permits to
17 manufacture, possess, import, transport, or sell the weapons consistent with the
18 limited exceptions established in Article 1.

19 Because the provisions of Article 1 and Article 2 are part of an interconnected
20 scheme of restrictions, exemptions, and permits to allow those exempted uses, it
21 seems clear that both articles are referring to the same weapons. Otherwise, the
22 scope of the Article 2 permit authority would not be consistent with the uses of the
23 weapons authorized by Article 1. As Article 1 is governed by the definitions, it
24 seems clear that Article 2 is also using the terms with their defined meanings.

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

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

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

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

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

Section 17180 provides the only definition for short-barreled shotgun in the Penal Code.

22. Sections 16590, 18010, 27140, 27740, 27940, 33300, 33305, 33310, 33315, and 33320.

23. Chapter 8 (commencing with Section 33210) of Division 10 of Title 4 of Part 6.

1 **Sections Referring to Provisions that are Governed by the Definition**

2 A few sections refer to “short-barreled rifle” and “short-barreled shotgun,” but
3 do so by express reference to a provision that is governed by the definitions.²⁴ For
4 example, Section 18010(a) provides:

5 The Attorney General, district attorney, or city attorney may bring an action to
6 enjoin the manufacture of, importation of, keeping for sale of, offering or
7 exposing for sale, giving, lending, or possession of, any item that constitutes a
8 nuisance under any of the following provisions:

9 ...
10 (22) Section 33290, relating to a short-barreled rifle or a short-barreled shotgun.
11

12 It is clear that such sections are using the terms with the meanings applicable to
13 the referenced provisions (i.e., the defined meanings).

14 STANDARDIZING REFERENCES TO
15 ORGANIZATIONS AND PERSONS

16 **Bureau of Alcohol, Tobacco, Firearms, and Explosives**

17 In the Homeland Security Act of 2002, the “Bureau of Alcohol, Tobacco, and
18 Firearms” was reorganized.²⁵ Some of its functions were transferred to the newly
19 created “Bureau of Alcohol, Tobacco, Firearms, and Explosives” in the
20 Department of Justice; other functions were assigned to the newly created Tax and
21 Trade Bureau in the Department of the Treasury.²⁶ In 2011, many provisions in the
22 California codes were amended to reflect the reorganization.²⁷ One reference to the
23 Bureau has not yet been updated.²⁸ The Commission recommends that this
24 reference be amended to reflect the reorganization of the Bureau.

25 In nearly all Penal Code provisions that reference the Bureau, the agency is
26 referred to as the “federal” Bureau of Alcohol, Tobacco, Firearms, and
27 Explosives.²⁹ Currently, three provisions do not follow the drafting convention of
28 specifying the Bureau is a federal agency.³⁰ The Commission recommends they be
29 amended to do so.

24. Sections 16590, 18010, 27140, 27740, and 27940.

25. Pub. L. 107-296.

26. *Id.* § 1111.

27. *See, e.g.*, 2011 Cal. Stat. ch. 296, § 228 (AB 1023 (Wagner)).

28. Section 11108.9.

29. *See, e.g.*, Sections 16880, 25650, 31910.

30. Sections 11108.9, 28480, 28490.

1 **“Facility’s Manager” for a Gun Show or Event**

2 Section 27210 requires the preparation of an annual event and security plan and
3 schedule for gun shows and events. This section specifies what information must
4 be included in the plan, who must be provided with the plan, when changes to the
5 plan must be submitted, and the need for approval of that plan by the facility’s
6 manager.

7 In setting forth these requirements, Section 27210 refers to a “facility manager,”
8 “facilities manager,” and “facility’s manager.”³¹ These terms appear to be used
9 interchangeably to refer to the same person, without any intention that they have
10 different meanings. The Commission recommends that the terminology be
11 standardized.

12 **REQUEST FOR COMMENT**

13 The Commission requests public comment on all of the proposed amendments
14 included in this tentative recommendation.

31. Section 27210 uses the term “facility’s manager” four times and uses each of the terms “facility manager” and “facilities manager” once.

Contents

Penal Code § 11108.9 (amended). Serial Number Restoration Plan	11
Penal Code § 16190 (amended). “Application to purchase”	11
Penal Code § 16540 (amended). “Firearm safety device”	11
Penal Code § 16850 (amended). “Locked container”	12
Penal Code § 17170 (amended). “Short-barreled rifle”	12
Penal Code § 17180 (amended). “Short-barreled shotgun”	13
Penal Code § 27210 (amended). Annual event and security plan and schedule.....	13
Penal Code § 28480 (amended). Inspection of business premises	14
Penal Code § 28490 (amended). Regulations	14

PROPOSED LEGISLATION

1 **Penal Code § 11108.9 (amended). Serial Number Restoration Plan**

2 SEC. _____. Section 11108.9 of the Penal Code is amended to read:

3 11108.9. Each local law enforcement agency shall develop, in conjunction with
4 and subject to the approval of the Department of Justice, a succinct Serial Number
5 Restoration Plan setting forth the goals for reduction in the number of recovered
6 firearms that cannot be traced due to obliterated serial numbers, and the methods
7 that the local agency will follow in order to achieve these goals, including, but not
8 limited to, establishing local programs for restoring serial numbers and accessing
9 resources of the Department of Justice or the ~~Bureau of Alcohol, Tobacco, and~~
10 ~~Firearms~~ federal Bureau of Alcohol, Tobacco, Firearms, and Explosives for
11 restoring serial numbers. These plans shall be submitted to the Department of
12 Justice by January 1, 2000.

13 **Comment.** Section 11108.9 is amended to reflect the reorganization of the Bureau of Alcohol,
14 Tobacco, and Firearms into two new entities (the Bureau of Alcohol, Tobacco, Firearms, and
15 Explosives and the Tax and Trade Bureau) and conform to the practice of making clear that the
16 “Bureau of Alcohol, Tobacco, Firearms, and Explosives” refers to the federal agency. See federal
17 Homeland Security Act of 2002, Pub. L. 107-296.

18 **Penal Code § 16190 (amended). “Application to purchase”**

19 SEC. _____. Section 16190 of the Penal Code is amended to read:

20 16190. As used in ~~Article 2 (commencing with Section 26800) of Chapter 2 of~~
21 ~~Division 6 of Title 4, and in Article 1 (commencing with Section 27500) of~~
22 ~~Chapter 4 of Division 6 of Title 4~~ this part, “application to purchase” means either
23 of the following:

24 (a) The initial completion of the register by the purchaser, transferee, or person
25 being loaned a firearm, as required by Section 28210.

26 (b) The initial completion and transmission to the Department of Justice of the
27 record of electronic or telephonic transfer by the dealer on the purchaser,
28 transferee, or person being loaned a firearm, as required by Section 28215.

29 **Comment.** Section 16190 is amended to expressly apply the definition of “application to
30 purchase” to the whole of Part 6. This amendment does not effect a substantive change because
31 all of the provisions in Part 6 that use the term “application to purchase” use it with the meaning
32 provided in this section. See, e.g., Sections 26955, 26960, 26965, 27655, 27660, 27665, 28210,
33 and 28215.

34 **Penal Code § 16540 (amended). “Firearm safety device”**

35 SEC. _____. Section 16540 of the Penal Code is amended to read:

36 16540. As used in ~~Division 2 (commencing with Section 23620) of Title 4~~ this
37 part, “firearm safety device” means a device other than a gun safe that locks and is
38 designed to prevent children and unauthorized users from firing a firearm. The

1 device may be installed on a firearm, be incorporated into the design of the
2 firearm, or prevent access to the firearm.

3 **Comment.** Section 16540 is amended to expressly apply the definition of “firearm safety
4 device” to the whole of Part 6. This amendment does not effect a substantive change because all
5 of the provisions in Part 6 that use the term “firearm safety device” use it with the meaning
6 provided in this section. See, e.g., Sections 26850, 26853, 26856, 26859, and 26915.

7 **Penal Code § 16850 (amended). “Locked container”**

8 SEC. _____. Section 16850 of the Penal Code is amended to read:

9 16850. As used in ~~Sections 17740, 23925, 25105, 25205, and 25610, in Article 3~~
10 ~~(commencing with Section 25505) of Chapter 2 of Division 5 of Title 4, in~~
11 ~~Chapter 6 (commencing with Section 26350) of Division 5 of Title 4, and in~~
12 ~~Chapter 7 (commencing with Section 26400) of Division 5 of Title 4~~ this part,
13 “locked container” means a secure container that is fully enclosed and locked by a
14 padlock, keylock, combination lock, or similar locking device. The term “locked
15 container” does not include the utility or glove compartment of a motor vehicle.

16 **Comment.** Section 16850 is amended to expressly apply the definition of “locked container” to
17 the whole of Part 6. This amendment does not effect a substantive change because all of the
18 provisions in Part 6 that use the term “locked container” use it with the meaning provided in this
19 section. See, e.g., Sections 26815, 27540, and 27560.

20 **Penal Code § 17170 (amended). “Short-barreled rifle”**

21 SEC. _____. Section 17170 of the Penal Code is amended to read:

22 17170. As used in ~~Sections 16530 and 16640, Sections 17720 to 17730,~~
23 ~~inclusive, Section 17740, Article 1 (commencing with Section 27500) of Chapter~~
24 ~~4 of Division 6 of Title 4, and Article 1 (commencing with Section 33210) of~~
25 ~~Chapter 8 of Division 10 of Title 4~~ this part, “short-barreled rifle” means any of
26 the following:

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

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

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

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

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

39 **Comment.** Section 17170 is amended to expressly apply the definition of “short-barreled rifle”
40 to the whole of Part 6. This amendment does not effect a substantive change because all of the
41 provisions in Part 6 that use the term “short-barreled rifle” use it with the meaning provided in
42 this section. See, e.g., Sections 16590, 18010, 27140, 27740, 27940, 33300, 33305, 33310,
43 33315, and 33320.

1 **Penal Code § 17180 (amended). “Short-barreled shotgun”**

2 SEC. ____ . Section 17180 of the Penal Code is amended to read:

3 17180. As used in Sections ~~16530 and 16640, Sections 17720 to 17730,~~
4 ~~inclusive, Section 17740, Article 1 (commencing with Section 27500) of Chapter~~
5 ~~4 of Division 6 of Title 4, and Article 1 (commencing with Section 33210) of~~
6 ~~Chapter 8 of Division 10 of Title 4~~ this part, “short-barreled shotgun” means any
7 of the following:

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

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

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

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

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

22 **Comment.** Section 17180 is amended to expressly apply the definition of “short-barreled
23 shotgun” to the whole of Part 6. This amendment does not effect a substantive change because all
24 of the provisions in Part 6 that use the term “short-barreled shotgun” use it with the meaning
25 provided in this section. See, e.g., Sections 16590, 18010, 27140, 27740, 27940, 33300, 33305,
26 33310, 33315, and 33320.

27 **Penal Code § 27210 (amended). Annual event and security plan and schedule**

28 SEC. ____ . Section 27210 of the Penal Code is amended to read:

29 27210. (a) The producer and ~~facility~~ facility’s manager of a gun show or event
30 shall prepare an annual event and security plan and schedule that shall include, at a
31 minimum, the following information for each show or event:

32 (1) The type of show or event including, but not limited to, antique or general
33 firearms.

34 (2) The estimated number of vendors offering firearms for sale or display.

35 (3) The estimated number of attendees.

36 (4) The number of entrances and exits at the gun show or event site.

37 (5) The location, dates, and times of the show or event.

38 (6) The contact person and telephone number for both the producer and the
39 facility.

40 (7) The number of sworn peace officers employed by the producer or the
41 ~~facilities~~ facility’s manager who will be present at the show or event.

42 (8) The number of nonsworn security personnel employed by the producer or the
43 facility’s manager who will be present at the show or event.

1 (b) The annual event and security plan shall be submitted by either the producer
2 or the facility’s manager to the Department of Justice and the law enforcement
3 agency with jurisdiction over the facility.

4 (c) If significant changes have been made since the annual plan was submitted,
5 the producer shall, not later than 15 days before commencement of the gun show
6 or event, submit to the department, the law enforcement agency with jurisdiction
7 over the facility site, and the facility’s manager, a revised event and security plan,
8 including a revised list of vendors that the producer knows, or reasonably should
9 know, will be renting tables, space, or otherwise participating in the gun show or
10 event.

11 (d) The event and security plan shall be approved by the facility’s manager
12 before the event or show, after consultation with the law enforcement agency with
13 jurisdiction over the facility.

14 (e) No gun show or event shall commence unless the requirements of
15 subdivisions (b), (c), and (d) are met.

16 **Comment.** Section 27210 is amended to standardize the references to the facility’s manager
17 for the site of the gun show or event.

18 **Penal Code § 28480 (amended). Inspection of business premises**

19 SEC. ____ . Section 28480 of the Penal Code is amended to read:

20 28480. (a) The department may conduct onsite inspections at the business
21 premises of a person on the centralized list described in Section 28450 to
22 determine compliance with firearms laws pursuant to the provisions listed in
23 Section 16575.

24 (b) The department shall work in consultation with the federal Bureau of
25 Alcohol, Tobacco, Firearms, and Explosives to ensure that licensees are not
26 subject to duplicative inspections.

27 (c) During the inspection the following firearm records shall be made available
28 for review:

29 (1) Federal records referred to in subdivision (a) of Section 478.125 of Title 27
30 of the Code of Federal Regulations and the bound book containing the same
31 information referred to in Section 478.124a and subdivision (e) of Section 478.125
32 of Title 27 of the Code of Federal Regulations.

33 (2) Verification numbers issued pursuant to Section 27555.

34 (3) Any other records requested by the department to determine compliance with
35 the provisions listed in Section 16575.

36 **Comment.** Section 28480 is amended to conform to the practice of making clear that the
37 “Bureau of Alcohol, Tobacco, Firearms, and Explosives” refers to the federal agency.

38 **Penal Code § 28490 (amended). Regulations**

39 SEC. ____ . Section 28490 of the Penal Code is amended to read:

40 28490. The department may adopt regulations as necessary to carry out the
41 provisions of this article, Article 1 (commencing with Section 26700) and Article

1 2 (commencing with Section 26800) of Chapter 2, and Sections 27555 to 27570,
2 inclusive. The department shall work in consultation with the federal Bureau of
3 Alcohol, Tobacco, Firearms, and Explosives to ensure that state regulations are not
4 duplicative of federal regulations.

5 **Comment.** Section 28490 is amended to conform to the practice of making clear that the
6 “Bureau of Alcohol, Tobacco, Firearms, and Explosives” refers to the federal agency.
