

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Deadly Weapons: Minor Clean-Up Issues

December 2013

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
www.clrc.ca.gov

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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STATE OF CALIFORNIA

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December 13, 2013

To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California

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 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 certain organizations and persons.

This recommendation also includes two other minor technical revisions that were previously approved by the Legislature, but did not take effect for process reasons.

This recommendation was prepared pursuant to Section 7 of Chapter 711 of the Statutes of 2010 and Government Code Section 8298.

Respectfully submitted,

Damian Capozzola
Chairperson

DEADLY WEAPONS: MINOR CLEAN-UP ISSUES

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

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

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

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

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.

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

This recommendation also proposes two other minor technical revisions that were not included in Appendix B. These minor revisions are proposed pursuant to the Commission's authority in Government Code Section 8298.

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 Section 25135 and Division 2 (commencing with Section 23620) of Title 4 of Part 6.⁷

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 unclear 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.

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

7. The text set out here and throughout the recommendation reflects the changes to Penal Code provisions made in 2013. See 2013 Cal. Stat. ch. 737, § 3 (AB 500 (Ammiano)) (making definition of "firearm safety device" applicable to Section 25135).

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.”⁸

The Commission reviewed the undefined uses of this term in Part 6.⁹ 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 Department of Justice.¹⁰ The sections appear to be part of an integrated process governing firearm transfers.

8. 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 of “application to purchase” in the Penal Code.

9. Sections 26955, 26960, 26965, 27655, 27660, 27665, 28210, 28215, and 28255.

10. 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.”

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

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

“Firearm Safety Device”

Section 16540 defines “firearm safety device.”¹¹

The Commission reviewed the undefined uses of this term in Part 6.¹² As discussed below, all of the undefined uses of the term “firearm safety device” appear to be using the term with the meaning provided in the statutory definition. Therefore, the Commission recommends that the definition be generalized to cover the whole of Part 6 of the Penal Code.

Safe Handling Demonstration

Four of the sections that use the term “firearm safety device” without definition¹³ relate to the safe handling demonstration that a person must perform before a firearms dealer may deliver a handgun to the person.¹⁴ As part of the safe handling demonstration, the recipient must perform specified operations

11. 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 of “firearm safety device” in the Penal Code.

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

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

14. Section 26850(a).

involving the “firearm safety device” that is “required to be delivered” with the handgun.¹⁵

The Penal Code has only one provision, Section 23635, that requires a firearms dealer to provide a firearm safety device to the recipient of a handgun.¹⁶ Therefore, it seems clear that the device referenced in the safe handling demonstration provisions is the same “firearm safety device” referenced in Section 23635. The definition of “firearm safety device” applies to Section 23635. Consequently, this definition should also apply to the safe handling demonstration provisions that refer to the same device.

Secured Firearm

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

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

15. 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.

16. 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 15. 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.

“Locked Container”

Section 16850 defines “locked container.”¹⁷ Several provisions that are governed by the definition require that handguns be transported in “locked containers.”¹⁸

The Commission reviewed the undefined uses of this term in Part 6.¹⁹ As discussed below, all of the undefined uses of the term “locked container” appear to be using the term with the meaning provided in the statutory definition. Therefore, the Commission recommends that the definition be generalized to cover the whole of Part 6 of the Penal Code.

Firearm Delivery Requirements

Sections 26815 and 27540 require that firearms dealers deliver a firearm unloaded and either “securely wrapped” or in a “locked container.”²⁰ Logically, it seems that the locked container required

17. 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 of “locked container” in the Penal Code.

18. 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.

19. 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.”

20. 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.”

in these sections would be the same “locked container” that must be used by the recipient of a handgun when transporting that handgun. As noted above, the provisions requiring a locked container for handgun transportation are governed by the statutory definition of “locked container.” Thus, it appears that Sections 26815 and 27540 are also using the term with its defined meaning.

Public Education Program for Personal Firearms Importers

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

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

The term “short-barreled rifle” is defined in Section 17170.²¹

21. 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.

The term “short-barreled shotgun” is defined in Section 17180.²² Both terms are analyzed together, because every section that uses the terms uses both of them in tandem, to regulate both classes of weapons in the same way.

The Commission reviewed the undefined uses of these terms in Part 6.²³ As discussed below, all of the undefined uses appear to be using these terms with the meanings provided in the statutory definitions. Therefore, the Commission recommends that the definitions be generalized to cover the whole of Part 6 of the Penal Code.

Restrictions and Exceptions Applicable to Short-Barreled Rifles and Short-Barreled Shotguns

The Deadly Weapon Recommendation located most of the provisions that govern short-barreled rifles and shotguns in a single chapter, entitled “Short-Barreled Rifle or Short-Barreled

22. Section 17180 provides:

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

(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.

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

Shotgun.”²⁴ Article 1 of the chapter is governed by the definitions of “short-barreled rifle” and “short-barreled shotgun,” while Article 2 is not.

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

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

Sections Referring to Provisions that are Governed by the Definition

A few sections refer to “short-barreled rifle” and “short-barreled shotgun,” but do so by express reference to a provision that is governed by the definitions.²⁵ For example, Section 18010(a) provides:

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

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

....

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

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

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

STANDARDIZING REFERENCES TO CERTAIN ORGANIZATIONS AND PERSONS

Bureau of Alcohol, Tobacco, Firearms and Explosives

In the Homeland Security Act of 2002, the “Bureau of Alcohol, Tobacco and Firearms” was reorganized.²⁶ Some of its functions were transferred to the newly created “Bureau of Alcohol, Tobacco, Firearms, and Explosives” in the Department of Justice; other functions were assigned to the newly created Tax and Trade Bureau in the Department of the Treasury.²⁷ In 2011, many provisions in the California codes were amended to reflect the reorganization.²⁸ One reference to the Bureau has not yet been updated.²⁹ The Commission recommends that this reference be amended to reflect the reorganization of the Bureau.

In many of the Penal Code provisions that reference the Bureau, the agency is referred to as the “federal Bureau of Alcohol, Tobacco, Firearms and Explosives.”³⁰ Currently, three provisions do not follow this drafting convention.³¹ The Commission recommends they be amended to do so.

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

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

26. Pub. L. 107-296.

27. *Id.* § 1111.

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

29. Section 11108.9.

30. See, e.g., Sections 16880, 25650, 31910.

31. Sections 11108.9, 28480, 28490.

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."³² These terms appear to be used interchangeably to refer to the same person, without any intention that they have different meanings. The Commission recommends that the terminology be standardized.

OTHER TECHNICAL REVISIONS PREVIOUSLY APPROVED BY THE LEGISLATURE

The following minor changes were previously approved by the Legislature, but did not take effect for process reasons unrelated to their merits.

Clarifying Revisions

In 2011, the Commission recommended revising Penal Code Section 11106 to improve its clarity and readability. Legislation to implement the Commission's recommendation was enacted into law, but the changes to Section 11106 were chaptered out and did not take effect.³³ The proposed law includes revisions equivalent to those recommended in 2011.

Cross-Reference Correction

Penal Code Section 17190 contains an erroneous cross-reference to material that was repealed. In 2013, an amendment to correct the error was included in Senate Bill 567 (Jackson). That bill was approved by the Legislature but was vetoed for reasons unrelated

32. Section 27210 uses the term "facility's manager" four times and uses each of the terms "facility manager" and "facilities manager" once.

33. See 2011 Cal. Stat. ch. 285, § 23 (AB 1402 (Committee on Public Safety)), which was chaptered out by 2011 Cal. Stat. ch. 745, § 2 (AB 809 (Feuer)); see also 2011 Cal. Stat. ch. 745, § 2.5 (AB 809 (Feuer)).

to the cross-reference correction.³⁴ The proposed law would delete the erroneous cross-reference.

34. Governor's Veto Message for SB 567 (Jackson) (Oct. 11, 2013).

PROPOSED LEGISLATION

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PROPOSED LEGISLATION

Penal Code § 11106 (amended). Retention of records

SECTION 1. Section 11106 of the Penal Code is amended to read:

11106. (a)(1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of ~~all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215, information reported to the Department of Justice pursuant to Section 26225 or 29830, dealers' records of sales of firearms, reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as that section read prior to being repealed, reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms, information provided pursuant to Section 28255, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and all of the following:~~

(A) All copies of fingerprints.

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

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

(D) Dealers' records of sales of firearms.

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

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

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

(H) Information provided pursuant to Section 28255.

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

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

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

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

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

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

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

(E) Former Section 12084.

(F) Section 28255.

(G) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255, or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner

acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

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

(c)(1) ~~Any~~ If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the

record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to ~~Section 26225, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, or any provision listed in subdivision (a) of Section 16585, if the following conditions are met: any of the following:~~

(A) Section 26225.

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

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

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

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

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

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

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

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

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a

temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

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

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

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

Comment. Section 11106 is amended to improve clarity and readability. This is not a substantive change.

Note. The proposed amendment to Section 11106 incorporates revisions made by 2013 Cal. Stat. ch. 739, § 1.3 (AB 539 (Pan)), which will become operative on January 1, 2014. See Cal. Const. art. IV, § 8(c)(1); Gov't Code § 9600(a).

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

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

11108.9. Each local law enforcement agency shall develop, in conjunction with and subject to the approval of the Department of Justice, a succinct Serial Number Restoration Plan setting forth the goals for reduction in the number of recovered firearms that cannot be traced due to obliterated serial numbers, and the methods that the local agency will follow in order to achieve these goals, including, but not limited to, establishing local programs for restoring serial numbers and accessing resources of the Department of Justice or the ~~Bureau of Alcohol, Tobacco, and Firearms~~ federal Bureau of Alcohol, Tobacco, Firearms and Explosives for restoring

serial numbers. These plans shall be submitted to the Department of Justice by January 1, 2000.

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

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

SEC. 3. Section 16190 of the Penal Code is amended to read:

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

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

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

Comment. Section 16190 is amended to expressly apply the definition of “application to purchase” to the whole of Part 6. This amendment does not effect a substantive change because all of the provisions in Part 6 that use the term “application to purchase” use it with the meaning provided in this section. See, e.g., Sections 26955, 26960, 26965, 27655, 27660, 27665, 28210, 28215, and 28255.

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

SEC. 4. Section 16540 of the Penal Code is amended to read:

16540. As used in ~~Section 25135 and Division 2 (commencing with Section 23620) of Title 4~~ this part, “firearm safety device” means a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

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

Note. The proposed amendment to Section 16540 incorporates a revision made by 2013 Cal. Stat. ch. 737, § 3 (AB 500 (Ammiano)), which will become operative on January 1, 2014. See Cal. Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a).

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

SEC. 5. Section 16850 of the Penal Code is amended to read:

16850. As used in ~~Sections 17740, 23925, 25105, 25205, 25135, and 25610, in Article 3 (commencing with Section 25505) of Chapter 2 of Division 5 of Title 4, in Chapter 6 (commencing with Section 26350) of Division 5 of Title 4, and in Chapter 7 (commencing with Section 26400) of Division 5 of Title 4~~ this part, “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.

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

Note. The proposed amendment to Section 16850 incorporates a revision made by 2013 Cal. Stat. ch. 737, § 4 (AB 500 (Ammiano)), which will become operative on January 1, 2014. See Cal. Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a).

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

SEC. 6. Section 17170 of the Penal Code is amended to read:

17170. As used in ~~Sections 16530 and 16640, Sections 17720 to 17730, inclusive, Section 17740, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4~~ this part, “short-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.

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

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

SEC. 7. Section 17180 of the Penal Code is amended to read:

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

(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.

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

Penal Code § 17190 (amended). “Shotgun”

SEC. 8. Section 17190 of the Penal Code is amended to read:

17190. As used in Sections 16530, 16640, 16870, and 17180, Sections 17720 to 17730, inclusive, Section 17740, ~~subdivision (f) of Section 27555~~, Section 30215, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

Comment. Section 17190 is amended to delete an erroneous cross-reference.

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

SEC. 9. Section 27210 of the Penal Code is amended to read:

27210. (a) The producer and ~~facility~~ facility's 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~~ facility's 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.

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

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

SEC. 10. Section 28480 of the Penal Code is amended to read:

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

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

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

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

(2) Verification numbers issued pursuant to Section 27555.

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

Comment. Section 28480 is amended to conform to the practice of referring to the Bureau as the "federal Bureau of Alcohol, Tobacco, Firearms and Explosives."

Penal Code § 28490 (amended). Regulations

SEC. 11. Section 28490 of the Penal Code is amended to read:

28490. The department may adopt regulations as necessary to carry out the provisions of this article, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of

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

Comment. Section 28490 is amended to conform to the practice of referring to the Bureau as the “federal Bureau of Alcohol, Tobacco, Firearms and Explosives.”
