

## Memorandum 2009-5

**Nonsubstantive Reorganization of Deadly Weapon Statutes:  
Body Armor and Handguns  
(Chapters 3 and 4 of Division 10 of Title 4 of New Part 6)**

---

The Commission is preparing a tentative recommendation that would reorganize most of the substance of Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809) in a user-friendly manner in a new Part 6 of the Penal Code, without making any substantive change. To that end, attached is a draft of Chapters 3 (Body Armor) and 4 (Handguns) of Division 10 of Title 4 of new Part 6.

The staff found this material relatively straightforward to prepare. Staff Notes (☞ **Staff Note**) in the attached draft raise points to consider. **The staff does not plan to discuss each of these points at the upcoming meeting.** Rather, persons should identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing, preferably before the meeting (but afterwards is also acceptable).

**Commissioners and interested persons should review the attached draft and determine whether any revisions are needed before it is incorporated into a tentative recommendation.**

Respectfully submitted,

Barbara Gaal  
Chief Deputy Counsel

# Contents

PROPOSED LEGISLATION .....	1
TITLE 4. FIREARMS.....	1
DIVISION 10. SPECIAL RULES RELATING TO PARTICULAR TYPES OF FIREARMS OR FIREARM EQUIPMENT.....	1
CHAPTER 3. BODY ARMOR .....	1
§ 31310. Certification requirement for acquisition of body armor for members of California Highway Patrol.....	1
§ 31315. Performance standards for body armor .....	1
§ 31320. Application for certification of body armor.....	2
§ 31325. Content of application .....	2
§ 31330. Schedule for ballistic testing.....	2
§ 31335. Refusal to certify body armor .....	2
§ 31340. Revocation of certification.....	3
§ 31345. Purchases of body armor by Department of General Services.....	3
§ 31350. Process for defining “enforcement activities” and developing standards for replacement of body armor.....	3
§ 31355. Department of Justice regulations .....	3
§ 31360. Purchase, ownership, or possession of body armor by person convicted of violent felony .....	3
CHAPTER 4. HANDGUNS.....	6
Article 1. Unconventional Pistol.....	6
§ 31500. Prohibition on manufacture, import, sale, gift, loan, or possession of unconventional pistol.....	6
§ 31590. Unconventional pistol constituting nuisance .....	6
Article 2. Handgun Safety Certificate .....	7
§ 31610. Intent of Legislature .....	7
§ 31615. Handgun safety certificate requirement .....	7
§ 31620. Collusion or alteration, counterfeiting, or falsification of handgun safety certificate .....	8
§ 31625. Restrictions on issuance of handgun safety certificate by certified instructor .....	8
§ 31630. Instructional materials.....	9
§ 31635. Certified instructors.....	9
§ 31640. Written objective test .....	10
§ 31645. Test results and retesting.....	11
§ 31650. Fees.....	12
§ 31655. Preparation of handgun safety certificates.....	12
§ 31660. Duplicate certificate .....	13
§ 31665. Immunity .....	13
§ 31670. Operative date.....	13
Article 3. Exceptions to Handgun Safety Certificate Requirement.....	14
§ 31700. Persons exempted from handgun safety certificate requirement.....	14
§ 31705. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government .....	16
§ 31710. Exception for loan of firearm to peace officer employee for use in performing official duties .....	16
§ 31715. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code .....	17
§ 31720. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm.....	17

§ 31725. Exception for sale, delivery, or transfer to governmental entity as part of program in which entity is acquiring weapons from private individuals.....	17
§ 31730. Exception for sale, delivery, loan, or transfer by law enforcement representative to nonprofit historical society, museum, or institutional collection .....	18
§ 31735. Exception for sale, delivery, loan, or transfer by person other than law enforcement representative to nonprofit historical society, museum, or institutional collection .....	19
§ 31740. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers .....	20
§ 31745. Exception for sale, delivery, or transfer of handgun to dealer acting in course and scope of activities as dealer .....	20
§ 31750. Exception for loan of firearm if lender is constantly in presence of recipient, loan is for 3 days or less, and other requirements are met.....	20
§ 31755. Exception for service or repair by gunsmith.....	21
§ 31760. Exception for sale, delivery, or transfer by resident to licensed nonresident.....	21
§ 31765. Exception for loan of firearm to person 18 or older for target shooting under specified circumstances .....	21
§ 31770. Exception for deliveries, transfers, or returns made pursuant to certain statutes .....	21
§ 31775. Exception for sale, delivery, or transfer of unloaded firearms, other than handguns, by dealer to another dealer.....	22
§ 31780. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed nonresident.....	22
§ 31785. Exception for return of unloaded firearms to wholesaler to treat as merchandise .....	23
§ 31790. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another dealer to treat as merchandise.....	23
§ 31795. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun, by dealer to self .....	23
§ 31800. Exception for loan of unloaded firearm under specified circumstances by dealer to person at target facility or at premises of target shooting club or organization .....	24
§ 31805. Exception for sale, delivery, or transfer of unloaded firearms to wholesaler by another wholesaler or by licensed manufacturer or importer .....	24
§ 31810. Exception for certain situations involving minor .....	24
§ 31815. Exception for infrequent loan of unloaded firearm for use solely as prop .....	25
§ 31820. Exception loan of unloaded firearm, for use solely as prop, by federal firearms licensee to person with entertainment firearms permit .....	26
§ 31825. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit .....	26
§ 31830. Exception for short-term loan of unloaded firearm by dealer to consultant- evaluator.....	27
Article 4. “Unsafe Handgun” and Related Definitions .....	27
§ 31900. “Drop safety requirement for handguns” .....	27
§ 31905. “Firing requirement for handguns” .....	28
§ 31910. “Unsafe handgun” .....	29
Article 5. Rules Governing Unsafe Handguns.....	31
§ 32000. Manufacture, import, sale, gift, or loan of unsafe handgun.....	31
§ 32005. Certification of manufacturer, importer, or seller .....	32
§ 32010. Laboratory testing .....	32
§ 32015. Roster prepared by Department of Justice.....	34
§ 32020. Retesting of handgun models on roster.....	35
§ 32025. Reinstatement of handgun model on roster .....	36
§ 32030. Firearm differing in insignificant respects from listed firearm .....	36
Article 6. Exceptions to Rules Governing Unsafe Handguns.....	37

§ 32100. Exception for single-shot pistol or single-action revolver meeting certain specifications .....	37
§ 32105. Exception for pistols used in Olympic target shooting events .....	38
§ 32110. Other exceptions .....	40

---



PROPOSED LEGISLATION

**Staff Note.** This is a work in progress. The material shown below may be changed.  
The material shown below is new. Commissioners and other interested persons should review it carefully and determine whether any changes are necessary before it is incorporated into a tentative recommendation.  
Staff Notes (**Staff Note**) in the following draft raise matters for Commissioners and interested persons to consider. We do not plan to discuss each of these matters at the upcoming meeting. Rather, persons should review the draft, identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing before the meeting, or both.  
Some of the provisions in this draft contain a bracketed cross-reference to one or more existing code sections. As new Part 6 of the Penal Code is drafted, these cross-references will be conformed to the new numbering scheme.  
All of the proposed provisions would be located in the Penal Code. All references are to the Penal Code unless otherwise noted.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

TITLE 4. FIREARMS

....

DIVISION 10. SPECIAL RULES RELATING TO PARTICULAR  
TYPES OF FIREARMS OR FIREARM EQUIPMENT

....

CHAPTER 3. BODY ARMOR

**§ 31310. Certification requirement for acquisition of body armor for members of California Highway Patrol**

31300. No body armor shall be acquired by the commissioner pursuant to Section 2259.5 of the Vehicle Code unless, pursuant to subdivision (a) of Section 31315, the Department of Justice has certified the body armor.

**Comment.** Section 31300 continues former Section 12360 without substantive change.

**§ 31315. Performance standards for body armor**

31315. (a) Before a body armor may be purchased for use by state peace officers, the Department of Justice, after consultation with the Department of the California Highway Patrol, shall establish minimum ballistic performance standards, and shall determine that the armor satisfies those standards.

(b) Only body armor that meets state requirements under subdivision (a) for acquisition or purchase shall be eligible for testing for certification under the ballistic performance standards established by the Department of Justice.

1 (c) Only body armor that is certified as acceptable by the department shall be  
2 purchased for use by state peace officers.

3 **Comment.** Section 31315 continues former Section 12361 without substantive change.

4 **§ 31320. Application for certification of body armor**

5 31320. (a) Any person engaged in the manufacture or sale of body armor may  
6 apply to the Department of Justice for certification that a particular type of body  
7 armor manufactured or sold by that person is acceptable.

8 (b) The applicant shall reimburse the state for any actual expenses incurred by  
9 the state in testing and certifying a particular type of body armor.

10 **Comment.** Section 31320 continues former Section 12362 without substantive change.

11 **§ 31325. Content of application**

12 31325. Any application submitted pursuant to Section 31320 shall contain all of  
13 the following:

14 (a) Full written reports of any investigation conducted for the purpose of  
15 determining whether the body armor is acceptable.

16 (b) A full written statement of the design of the body armor.

17 (c) A full written statement of the methods used in, and the facilities and  
18 controls used for, the manufacture of the body armor.

19 (d) Any samples of the body armor and its components as the Department of  
20 Justice may require.

21 (e) Specimens of the instructions and advertisements used or proposed to be  
22 used for the body armor.

23 **Comment.** Section 31325 continues former Section 12363 without substantive change.

24 **§ 31330. Schedule for ballistic testing**

25 31330. The Department of Justice, in cooperation with the Office of  
26 Procurement of the Department of General Services, shall establish a schedule for  
27 ballistic testing for certification pursuant to subdivision (b) of Section 31315.

28 **Comment.** Section 31330 continues former Section 12364 without substantive change.

29 **§ 31335. Refusal to certify body armor**

30 31335. The Department of Justice shall issue an order refusing to certify a body  
31 armor as acceptable if, after due notice to the applicant, the department finds any  
32 of the following:

33 (a) That the body armor does not satisfy the ballistic performance standards  
34 established by the department pursuant to subdivision (b) of Section 31315.

35 (b) That the application contains any misrepresentation of a material fact.

36 (c) That the application is materially incomplete.

37 (d) That the applicant has failed to reimburse the state as required by Section  
38 31320.

39 **Comment.** Section 31335 continues former Section 12365 without substantive change.

1    **§ 31340. Revocation of certification**

2    31340. The Department of Justice shall issue an order revoking certification of a  
3    body armor if, after due notice to the applicant, the department finds any of the  
4    following:

5    (a) That the experience or additional testing show that the body armor does not  
6    comply with the department’s ballistic performance standards.

7    (b) That the application contains any misrepresentation of a material fact.

8    (c) The body armor must be retested for certification under new department  
9    standards.

10    **Comment.** Section 31340 continues former Section 12366 without substantive change.

11    **§ 31345. Purchases of body armor by Department of General Services**

12    31345. (a) All purchases of certified body armor under the provisions of this  
13    chapter shall be made by the Department of General Services on behalf of an  
14    authorized state agency or department. Purchases of body armor shall be based  
15    upon written requests submitted by an authorized state agency or department to the  
16    Department of General Services.

17    (b) The Department of General Services shall make certified body armor  
18    available to peace officers of the Department of Justice, as defined by Section  
19    830.3, while engaged in law enforcement activities.

20    **Comment.** Section 31345 continues former Section 12368 without substantive change.

21    **§ 31350. Process for defining “enforcement activities” and developing standards for**  
22    **replacement of body armor**

23    31350. The Department of General Services shall, pursuant to departmental  
24    regulation, after consultation with the Department of the California Highway  
25    Patrol, define the term “enforcement activities” for purposes of this chapter, and  
26    develop standards regarding what constitutes sufficient wear on body armor to  
27    necessitate replacement of the body armor.

28    **Comment.** Section 31350 continues former Section 12369 without substantive change.

29    See also Sections 31330 (schedule for ballistic testing), 31355 (Department of Justice  
30    regulations).

31    **§ 31355. Department of Justice regulations**

32    31355. The Department of Justice shall adopt and promulgate regulations for the  
33    fair and efficient enforcement of this chapter.

34    **Comment.** Section 31355 continues former Section 12367 without substantive change.

35    See also Sections 31330 (schedule for ballistic testing), 31350 (process for defining  
36    “enforcement activities” and developing standards for replacement of body armor).

37    **§ 31360. Purchase, ownership, or possession of body armor by person convicted of violent**  
38    **felony**

39    31360. (a) Any person who has been convicted of a violent felony under the  
40    laws of the United States, the State of California, or any other state, government,



1 or country, who purchases, owns, or possesses body armor, as defined by Section  
2 942 of Title 11 of the California Code of Regulations, except as authorized under  
3 subdivision (b), is guilty of a felony, punishable by imprisonment in a state prison  
4 for 16 months, or two or three years.

5 (b) Any person whose employment, livelihood, or safety is dependent on the  
6 ability to legally possess and use body armor, who is subject to the prohibition  
7 imposed by subdivision (a) due to a prior violent felony conviction, may file a  
8 petition for an exception to this prohibition with the chief of police or county  
9 sheriff of the jurisdiction in which that person seeks to possess and use the body  
10 armor. The chief of police or sheriff may reduce or eliminate the prohibition,  
11 impose conditions on reduction or elimination of the prohibition, or otherwise  
12 grant relief from the prohibition as the chief of police or sheriff deems appropriate,  
13 based on the following:

14 (1) A finding that the petitioner is likely to use body armor in a safe and lawful  
15 manner.

16 (2) A finding that the petitioner has a reasonable need for this type of protection  
17 under the circumstances.

18 In making its decision, the chief of police or sheriff shall consider the  
19 petitioner's continued employment, the interests of justice, any relevant evidence,  
20 and the totality of the circumstances. It is the intent of the Legislature that law  
21 enforcement officials exercise broad discretion in fashioning appropriate relief  
22 under this paragraph in cases in which relief is warranted. However, this paragraph  
23 may not be construed to require law enforcement officials to grant relief to any  
24 particular petitioner. Relief from this prohibition does not relieve any other person  
25 or entity from any liability that might otherwise be imposed.

26 (c) The chief of police or sheriff shall require, as a condition of granting an  
27 exception under subdivision (b), that the petitioner agree to maintain on the  
28 petitioner's person a certified copy of the law enforcement official's permission to  
29 possess and use body armor, including any conditions or limitations.

30 (d) Law enforcement officials who enforce the prohibition specified in  
31 subdivision (a) against a person who has been granted relief pursuant to  
32 subdivision (b), shall be immune from any liability for false arrest arising from the  
33 enforcement of this subdivision unless the person has in possession a certified  
34 copy of the permission granting the person relief from the prohibition, as required  
35 by subdivision (c). This immunity from liability does not relieve any person or  
36 entity from any other liability that might otherwise be imposed.

37 **Comment.** Section 31360 continues former Section 12370(a)-(d) without substantive change.  
38 See Section 17320 ("violent felony").

39 **Staff Notes.**

40 (1) Subdivision (a) of existing Section 12370 refers to a "violent felony" and cites a provision  
41 defining that term:

42 12370. (a) Any person who has been convicted of *a violent felony, as defined in*  
43 *subdivision (c) of Section 667.5*, under the laws of the United States, the State of California,

1 or any other state, government, or country, who purchases, owns, or possesses body armor, as  
2 defined by Section 942 of Title 11 of the California Code of Regulations, except as  
3 authorized under subdivision (b), is guilty of a felony, punishable by imprisonment in a state  
4 prison for 16 months, or two or three years.

5 (Emphasis added.) Subdivision (e) of the same section provides further guidance on the meaning  
6 of “violent felony.” It says:

7 (e) For purposes of this section only, “violent felony” refers to the specific crimes listed in  
8 subdivision (c) of Section 667.5, and to crimes defined under the applicable laws of the  
9 United States or any other state, government, or country that are reasonably equivalent to the  
10 crimes listed in subdivision (c) of Section 667.5.

11 The substance of subdivision (e) would be continued in proposed Section 17320 (“violent  
12 felony”), which would be located in the “Definitions” portion of new Part 6. It would thus be  
13 separated from the remaining substance of Section 12370, which would be recodified in proposed  
14 Section 31360.

15 Unlike subdivision (a) of Section 12370, subdivision (a) of proposed Section 31360 would not  
16 refer to “a violent felony, as defined in subdivision (c) of Section 667.5.” That phrase could be  
17 misleading if not juxtaposed with the additional clarification now found in subdivision (e).

18 Instead, subdivision (a) of proposed Section 31360 would simply refer to a “violent felony.”  
19 The Comment would cite proposed Section 17320 (“violent felony”), and would also state that  
20 “Section 31360 continues former Section 12370(a)-(d) without substantive change.” Because  
21 courts give great weight to the Commission’s comments, we think this would be sufficient to  
22 preserve the substance of Section 12370(a)-(d). See 2007-2008 Annual Report, 37 Cal. L.  
23 Revision Comm’n Reports 1, 17-23 (2007).

24 We invite input on this drafting decision. An alternative would be to (1) revise proposed  
25 Section 31360(a) to refer to “a violent felony, as defined in subdivision (c) of Section 667.5,” *and*  
26 (2) place the substance of Section 12370(e) in proposed Section 31360, instead of in the  
27 “Definitions” portion of new Part 6. We do not think the Commission should take the first of  
28 these steps unless it also takes the second step.

29 (2) In drafting California statutes, the Office of Legislative Counsel tries to avoid having any  
30 unlabeled paragraphs. This is a good rule and we generally follow it in drafting legislation for the  
31 Commission.

32 However, proposed Section 31360(b) would deviate from that rule. It would track the structure  
33 and content of existing Section 12370(b), which has an unlabeled paragraph at the end.

34 We took that approach because the unlabeled paragraph at the end of existing Section 12370(b)  
35 refers to “this paragraph” in two places. From the context, we are not sure whether those  
36 references are meant to encompass only the unlabeled paragraph itself, that paragraph plus the  
37 preceding paragraph (which is labeled as “(2)”), or the entirety of subdivision (b). Consequently,  
38 if we were to restructure the substance of subdivision (b) such that every paragraph was labeled,  
39 we would not know how to properly conform the references to “this paragraph.” Any attempt at  
40 this would entail a risk of a substantive change.

41 In this strictly nonsubstantive study, the safest course is to preserve the existing structure and  
42 content of subdivision (b), as shown above. Fixing the paragraph labeling might be worth doing  
43 in the future, in a different reform. Unless the Commission otherwise directs, we will add this  
44 issue to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative  
45 Attention.”

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
  
36  
37  
38  
39  
40  
41  
42

CHAPTER 4. HANDGUNS

Article 1. Unconventional Pistol

**§ 31500. Prohibition on manufacture, import, sale, gift, loan, or possession of unconventional pistol**

31500. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any unconventional pistol is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to an unconventional pistol, Section 31500 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17270 (“unconventional pistol”). See also Sections 17800 (distinct and separate offense), 31590 (unconventional pistol constituting nuisance).

In addition to the provisions in this chapter, a number of other provisions within this part pertain specifically to handguns. For example, see Sections 25400-25700 (carrying concealed firearm), 26010 (person licensed to carry pistol, revolver, or other firearm capable of being concealed upon the person), 26300-26325 (retired peace officer carrying concealed and loaded firearm), 26820 (display of handgun or imitation or placard advertising handgun), 26840 (presentation of basic firearms safety certificate or handgun safety certificate to dealer), 26845 (no handgun delivery without proof of California residency), 26850-26859 (safe handling demonstration with handgun), 26905 (reporting of handgun acquisitions), 26960 (waiting period exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self or another dealer), 27505 (transfer of handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of handgun to person under age 21), 27530 (transfer of handgun that lacks identifying information), 27560 (restrictions on personal handgun importer), 27565 (handgun that is curio or relic, transported into California by licensed collector), 27660 (waiting period exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self or another dealer), 27875 (exception for infrequent transfer of handgun between members of same immediate family), 27920 (exception for person who takes title or possession of handgun by operation of law), 28160 (form for handgun), 29610-29615 (possession of handgun by minor). See also Sections 30300 (sale of handgun ammunition or reloaded handgun ammunition to person under age 21), 30315-30325 (restrictions relating to handgun ammunition designed primarily to penetrate metal or armor).

**§ 31590. Unconventional pistol constituting nuisance**

31590. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any unconventional pistol is a nuisance and is subject to Section 18010.

**Comment.** With respect to an unconventional pistol, Section 31590 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17270 (“unconventional pistol”).

Article 2. Handgun Safety Certificate

**Staff Note.** The existing article on handgun safety certificates (Penal Code §§ 12800-12809) is inconsistent in referring to instructors. It uses two defined terms (“certified instructor” and “DOJ Certified Instructor”), as well as a number of similar terms that are not defined. See Memorandum 2007-33, Attachment p. 16. This matter is already on the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” In drafting proposed Sections 31610-31700, the staff preserved the existing terminology, to avoid any possibility of concern about a substantive change.

**§ 31610. Intent of Legislature**

31610. It is the intent of the Legislature in enacting this article to require that persons who obtain handguns have a basic familiarity with those firearms, including, but not limited to, the safe handling and storage of those firearms. It is not the intent of the Legislature to require a handgun safety certificate for the mere possession of a firearm.

**Comment.** Section 31610 continues former Section 12800 without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”).

**Staff Note.** Proposed Section 31610 is worded exactly the same way as existing Section 12800. But the meaning of the provision, and how it interrelates with proposed Section 31615, might be more clear if it was reworded as follows:

31610. It is the intent of the Legislature in enacting this article to require that persons who obtain handguns have a basic familiarity with ~~those firearms~~ handguns, including, but not limited to, the safe handling and storage of ~~those firearms~~ handguns. It is not the intent of the Legislature to require a handgun safety certificate for the mere possession of a firearm.

Because this is a strictly nonsubstantive study and the Commission is striving to minimize any concern that the proposed legislation would have a substantive impact, we do not recommend making these revisions in this study. They might be worth considering in the future, in a different study. Unless the Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

**§ 31615. Handgun safety certificate requirement**

31615. (a) No person shall do either of the following:

(1) Purchase or receive any handgun, except an antique firearm, without a valid handgun safety certificate.

(2) Sell, deliver, loan, or transfer any handgun, except an antique firearm, to any person who does not have a valid handgun safety certificate.

(b) Any person who violates subdivision (a) is guilty of a misdemeanor.

(c) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

**Comment.** Subdivision (a) of Section 31615 continues former Section 12801(b), except the definition of “antique firearm,” without substantive change. The definition of “antique firearm” is continued in Section 16170(b). For exceptions to the requirement of a handgun safety certificate, see Sections 31700-31830.

Subdivision (b) continues former Section 12801(c) without substantive change.

1 Subdivision (c) continues former Section 12801(d) without substantive change.  
2 See Sections 16170 (“antique firearm”), 16640 (“handgun”), 16670 (“handgun safety  
3 certificate”).

4 In addition to the provisions in this chapter, a number of other provisions within this part  
5 pertain specifically to handguns. For example, see Sections 25400-25700 (carrying concealed  
6 firearm), 26010 (person licensed to carry pistol, revolver, or other firearm capable of being  
7 concealed upon the person), 26300-26325 (retired peace officer carrying concealed and loaded  
8 firearm), 26820 (display of handgun or imitation or placard advertising handgun), 26840  
9 (presentation of basic firearms safety certificate or handgun safety certificate to dealer), 26845  
10 (no handgun delivery without proof of California residency), 26850-26859 (safe handling  
11 demonstration with handgun), 26905 (reporting of handgun acquisitions), 26960 (waiting period  
12 exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self  
13 or another dealer), 27505 (transfer of handgun to person under age 21), 27510 (dealer that  
14 supplies, delivers, or gives possession or control of handgun to person under age 21), 27530  
15 (transfer of handgun that lacks identifying information), 27560 (restrictions on personal handgun  
16 importer), 27565 (handgun that is curio or relic, transported into California by licensed collector),  
17 27660 (waiting period exception for sale, delivery, or transfer of handgun, not intended as  
18 merchandise, by dealer to self or another dealer), 27875 (exception for infrequent transfer of  
19 handgun between members of same immediate family), 27920 (exception for person who takes  
20 title or possession of handgun by operation of law), 28160 (form for handgun), 29610-29615  
21 (possession of handgun by minor). See also Sections 30300 (sale of handgun ammunition or  
22 reloaded handgun ammunition to person under age 21), 30315-30325 (restrictions relating to  
23 handgun ammunition designed primarily to penetrate metal or armor).

24 **§ 31620. Collusion or alteration, counterfeiting, or falsification of handgun safety certificate**

25 31620. (a) No person may commit an act of collusion as specified in Section  
26 27550.

27 (b) Any person who alters, counterfeits, or falsifies a handgun safety certificate,  
28 or who uses or attempts to use any altered, counterfeited, or falsified handgun  
29 safety certificate to purchase a handgun is guilty of a misdemeanor.

30 (c) The provisions of this section are cumulative and shall not be construed as  
31 restricting the application of any other law. However, an act or omission  
32 punishable in different ways by this section and different provisions of this code  
33 shall not be punished under more than one provision.

34 **Comment.** Section 31620 continues former Section 12802 without substantive change.  
35 See Sections 16640 (“handgun”), 16670 (“handgun safety certificate”).

36 **§ 31625. Restrictions on issuance of handgun safety certificate by certified instructor**

37 31625. (a) No certified instructor may issue a handgun safety certificate to any  
38 person who has not complied with this article. Proof of compliance shall be  
39 forwarded to the department by certified instructors as frequently as the  
40 department may determine.

41 (b) No certified instructor may issue a handgun safety certificate to any person  
42 who is under 18 years of age.

43 (c) A violation of this section shall be grounds for the department to revoke the  
44 instructor’s certification to issue handgun safety certificates.

45 **Comment.** Section 31625 continues former Section 12803 without substantive change.

1 See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450  
2 (“department”), 16640 (“handgun”), 16670 (“handgun safety certificate”).

3 **§ 31630. Instructional materials**

4 31630. (a) The department shall develop an instruction manual in English and in  
5 Spanish by October 1, 2002. The department shall make the instructional manual  
6 available to firearms dealers licensed pursuant to Sections 26700 to 26915,  
7 inclusive, who shall make it available to the general public. Essential portions of  
8 the manual may be included in the pamphlet described in [Section 12080].

9 (b) The department shall develop audiovisual materials in English and in  
10 Spanish by March 1, 2003, to be issued to instructors certified by the department.

11 (c) The department shall solicit input from any reputable association or  
12 organization, including any law enforcement association that has as one of its  
13 objectives the promotion of firearms safety, in the development of the handgun  
14 safety certificate instructional materials.

15 **Comment.** Subdivision (a) of Section 31630 continues former Section 12804(a) without  
16 substantive change.

17 Subdivision (b) continues former Section 12804(b) without substantive change.

18 Subdivision (c) continues former Section 12804(f) without substantive change.

19 For guidance on potential liability for implementation of this section, see Section 31655  
20 (immunity).

21 See Sections 16450 (“department”), 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun  
22 safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700  
23 to 26915, inclusive”).

24 **§ 31635. Certified instructors**

25 31635. (a) The department shall prescribe a minimum level of skill, knowledge  
26 and competency to be required of all handgun safety certificate instructors.

27 (b) Department Certified Instructor applicants shall have a certification to  
28 provide training from one of the following organizations as specified, or any entity  
29 found by the department to give comparable instruction in firearms safety, or the  
30 applicant shall have similar or equivalent training to that provided by the  
31 following, as determined by the department:

32 (1) Department of Consumer Affairs, State of California-Firearm Training  
33 Instructor.

34 (2) Director of Civilian Marksmanship, Instructor or Rangemaster.

35 (3) Federal Government, Certified Rangemaster or Firearm Instructor.

36 (4) Federal Law Enforcement Training Center, Firearm Instructor Training  
37 Program or Rangemaster.

38 (5) United States Military, Military Occupational Specialty (MOS) as  
39 marksmanship or firearms instructor. Assignment as Range Officer or Safety  
40 Officer are not sufficient.

41 (6) National Rifle Association-Certified Instructor, Law Enforcement Instructor,  
42 Rangemaster, or Training Counselor.

1 (7) Commission on Peace Officer Standards and Training (POST), State of  
2 California-Firearm Instructor or Rangemaster.

3 (8) Authorization from a State of California accredited school to teach a firearm  
4 training course.

5 **Comment.** Subdivision (a) of Section 31635 continues former Section 12804(d) without  
6 substantive change.

7 Subdivision (b) continues former Section 12804(j) without substantive change.

8 For guidance on potential liability for implementation of this section, see Section 31655  
9 (immunity).

10 See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450  
11 (“department”), 16670 (“handgun safety certificate”).

12 **§ 31640. Written objective test**

13 31640. (a) The department shall develop a written objective test, in English and  
14 in Spanish, and prescribe its content, form, and manner, to be administered by an  
15 instructor certified by the department.

16 (b) If the person taking the test is unable to read, the examination shall be  
17 administered orally. If the person taking the test is unable to read English or  
18 Spanish, the test may be applied orally by a translator.

19 (c) The test shall cover, but not be limited to, all of the following:

20 (1) The laws applicable to carrying and handling firearms, particularly  
21 handguns.

22 (2) The responsibilities of ownership of firearms, particularly handguns.

23 (3) Current law as it relates to the private sale and transfer of firearms.

24 (4) Current law as it relates to the permissible use of lethal force.

25 (5) What constitutes safe firearm storage.

26 (6) Issues associated with bringing a handgun into the home.

27 (7) Prevention strategies to address issues associated with bringing firearms into  
28 the home.

29 (d) The department shall update test materials related to this article every five  
30 years.

31 (e) If a dealer licensed pursuant to Sections 26700 to 26915, inclusive, or his or  
32 her employee, or where the managing officer or partner is certified as an instructor  
33 pursuant to this article, he or she shall also designate a separate room or  
34 partitioned area for a person to take the objective test, and maintain adequate  
35 supervision to assure that no acts of collusion occur while the objective test is  
36 being administered.

37 **Comment.** Subdivision (a) of Section 31640 continues the first sentence of former Section  
38 12804(c)(1) without substantive change.

39 Subdivision (b) continues former Section 12804(c)(2) and the second sentence of former  
40 Section 12804(c)(1) without substantive change.

41 Subdivision (c) continues the third sentence of former Section 12804(c)(1) without substantive  
42 change.

43 Subdivision (d) continues former Section 12804(i) without substantive change.

1 Subdivision (e) continues former Section 12804(e) without substantive change. For further  
2 guidance regarding prevention of collusion, see Sections 27550 (no collusion), 31620 (collusion  
3 or alteration, counterfeiting, or falsification of handgun safety certificate).

4 For guidance on potential liability for implementation of this section, see Section 31655  
5 (immunity).

6 See Sections 16450 (“department”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,”  
7 “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

8 **☞ Staff Notes.**

9 (1) The second sentence of existing Section 12804(c)(1) says: “If the person taking the test is  
10 unable to read, the examination shall be *administered orally*.” (Emphasis added.) In contrast,  
11 existing Section 12804(c)(2) says: “If the person taking the test is unable to read English or  
12 Spanish, the test may be *applied orally* by a translator.” (Emphasis added.)

13 The staff does not know why one sentence uses the phrase “administered orally” and the other  
14 uses the phrase “applied orally.” Our inclination would be to use “administered orally” in both  
15 places.

16 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any  
17 concern that the proposed legislation would have a substantive impact, we preserved the existing  
18 language in drafting proposed Section 31640(b). The point raised above might be worth  
19 considering in the future. Unless the Commission otherwise directs, we will add this issue to the  
20 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

21 (2) Existing Section 12804(e) is poorly worded. It provides:

22 (e) If a dealer licensed pursuant to Section 12071 or his or her employee, or where the  
23 managing officer or partner is certified as an instructor pursuant to this article, he or she shall  
24 also designate a separate room or partitioned area for a person to take the objective test, and  
25 maintain adequate supervision to assure that no acts of collusion occur while the objective  
26 test is being administered.

27 The provision could perhaps be reworded to achieve greater clarity without any change in  
28 meaning.

29 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any  
30 concern that the proposed legislation would have a substantive impact, we preserved the existing  
31 language in drafting proposed Section 31640(e). The point raised above might be worth  
32 considering in the future. Unless the Commission otherwise directs, we will add this issue to the  
33 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

34 **§ 31645. Test results and retesting**

35 31645. (a) An applicant for a handgun safety certificate shall successfully pass  
36 the objective test referred to in Section 31640, with a passing grade of at least 75  
37 percent. Any person receiving a passing grade on the objective test shall  
38 immediately be issued a handgun safety certificate by the instructor.

39 (b) An applicant who fails to pass the objective test upon the first attempt shall  
40 be offered additional instructional materials by the instructor, such as a videotape  
41 or booklet. The person may not retake the objective test under any circumstances  
42 until 24 hours have elapsed after the failure to pass the objective test upon the first  
43 attempt. The person failing the test on the first attempt shall take another version  
44 of the test upon the second attempt. All tests shall be taken from the same  
45 instructor except upon permission by the department, which shall be granted only



1 for good cause shown. The instructor shall make himself or herself available to the  
2 applicant during regular business hours in order to retake the test.

3 **Comment.** Subdivision (a) of Section 31645 continues former Section 12805(a) without  
4 substantive change.

5 Subdivision (b) continues former Section 12805(b) without substantive change.

6 See Sections 16450 (“department”), 16670 (“handgun safety certificate”).

7 **§ 31650. Fees**

8 31650. (a) The certified instructor may charge a fee of twenty-five dollars (\$25),  
9 fifteen dollars (\$15) of which is to be paid to the department pursuant to  
10 subdivision (c).

11 (b) An applicant to renew a handgun safety certificate shall be required to pass  
12 the objective test. The certified instructor may charge a fee of twenty-five dollars  
13 (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant  
14 to subdivision (c).

15 (c) The department may charge the certified instructor up to fifteen dollars (\$15)  
16 for each handgun safety certificate issued by that instructor to cover the  
17 department’s cost in carrying out and enforcing this article, and enforcing the  
18 provisions listed in subdivision (e), as determined annually by the department.

19 (d) All money received by the department pursuant to this article shall be  
20 deposited into the Firearms Safety and Enforcement Special Fund created pursuant  
21 to Section 28300.

22 (e) The department shall conduct enforcement activities, including, but not  
23 limited to, law enforcement activities to ensure compliance with the following  
24 provisions:

25 (1) Section 830.95.

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

27 (3) This part, except Sections 16965, 17235, and 21510.

28 **Comment.** Subdivision (a) of Section 31650 continues former Section 12805(c) without  
29 substantive change.

30 Subdivision (b) continues former Section 12805(d) without substantive change.

31 Subdivision (c) continues former Section 12805(e) without substantive change.

32 Subdivision (d) continues former Section 12805(f) without substantive change.

33 Subdivision (e) continues former Section 12805(g) without substantive change.

34 See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450  
35 (“department”), 16670 (“handgun safety certificate”).

36 **§ 31655. Preparation of handgun safety certificates**

37 31655. (a) The department shall develop handgun safety certificates to be issued  
38 by instructors certified by the department, to those persons who have complied  
39 with this article.

40 (b) A handgun safety certificate shall include, but not be limited to, the  
41 following information:

42 (1) A unique handgun safety certificate identification number.

43 (2) The holder’s full name.

- 1 (3) The holder's date of birth.
- 2 (4) The holder's driver's license or identification number.
- 3 (5) The holder's signature.
- 4 (6) The signature of the issuing instructor.
- 5 (7) The date of issuance.

6 (c) The handgun safety certificate shall expire five years after the date that it was  
7 issued by the certified instructor.

8 **Comment.** Subdivision (a) of Section 31655 continues former Section 12804(g) without  
9 substantive change. For guidance on potential liability for implementation of this subdivision, see  
10 Section 31655 (immunity).

11 Subdivision (b) continues former Section 12806(a) without substantive change.

12 Subdivision (c) continues former Section 12806(b) without substantive change.

13 See Sections 16370 ("certified instructor" or "DOJ certified instructor"), 16450  
14 ("department"), 16670 ("handgun safety certificate").

15 **§ 31660. Duplicate certificate**

16 31660. (a) In the case of loss or destruction of a handgun safety certificate, the  
17 issuing instructor shall issue a duplicate certificate upon request and proof of  
18 identification to the certificate holder.

19 (b) The department may authorize the issuing instructor to charge a fee not to  
20 exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee  
21 shall be deposited in the Firearms Safety and Enforcement Special Fund, created  
22 pursuant to Section 28300.

23 **Comment.** Section 31660 continues former Section 12808 without substantive change.

24 See Sections 16450 ("department"), 16670 ("handgun safety certificate").

25 **§ 31665. Immunity**

26 31665. The department shall be immune from any liability arising from  
27 implementing Sections 31630, 31635, 31640, and subdivision (a) of Section  
28 31655.

29 **Comment.** Section 31665 continues former Section 12804(h) without substantive change.

30 See Section 16450 ("department").

31 **§ 31670. Operative date**

32 31670. Except for the provisions of former Section 12804, former Article 8  
33 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 became  
34 operative on January 1, 2003.

35 **Comment.** Section 31670 continues former Section 12809 without substantive change.

36 Former Article 8 of Chapter 6 of Title 2 of Part 4 consisted of former Sections 12800-12809.  
37 One provision in that article, former Section 12804, became operative on January 1, 2002. It is  
38 continued in Sections 31630, 31635, 31640, 31655(a), and 31665. The remainder of the article  
39 had a delayed operative date of January 1, 2003. Those provisions are continued in Sections  
40 31610-31625, 31645-31650, 31655(b)-(c), 31660, and 31700.

41 **Staff Note.** Proposed Section 31670 would continue the substance of existing Section 12809,  
42 which states a delayed operative date that has long since passed. Technically, that provision  
43 would seem to be obsolete, because it is now well after January 1, 2003.

1 The staff recognizes, however, that retaining the provision in the codes might sometimes be  
2 useful for reference purposes. We do not know whether that is likely to occur often enough to  
3 justify retention of the provision.

4 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any  
5 concern that the proposed legislation would have a substantive impact, the staff does not  
6 recommend deleting the provision as obsolete in this study. We would appreciate input on  
7 whether the provision remains useful, and whether it would be appropriate to add this matter to  
8 the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

9 Article 3. Exceptions to Handgun Safety Certificate  
10 Requirement

11 **§ 31700. Persons exempted from handgun safety certificate requirement**

12 31700. (a) The following persons, properly identified, are exempted from the  
13 handgun safety certificate requirement in subdivision (a) of Section 31615:

14 (1) Any active or honorably retired peace officer, as defined in Chapter 4.5  
15 (commencing with Section 830) of Title 3 of Part 2.

16 (2) Any active or honorably retired federal officer or law enforcement agent.

17 (3) Any reserve peace officer, as defined in Section 832.6.

18 (4) Any person who has successfully completed the course of training specified  
19 in Section 832.

20 (5) A firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive,  
21 who is acting in the course and scope of that person’s activities as a person  
22 licensed pursuant to Sections 26700 to 26915, inclusive.

23 (6) A federally licensed collector who is acquiring or being loaned a handgun  
24 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of  
25 Federal Regulations, who has a current certificate of eligibility issued by the  
26 department pursuant to Section 26710.

27 (7) A person to whom a handgun is being returned, where the person receiving  
28 the firearm is the owner of the firearm.

29 (8) A family member of a peace officer or deputy sheriff from a local agency  
30 who receives a firearm pursuant to Section 50081 of the Government Code.

31 (9) Any individual who has a valid concealed weapons permit issued pursuant to  
32 Chapter 4 (commencing with Section 26150) of Division 5.

33 (10) An active, or honorably retired member of the United States Armed Forces,  
34 the National Guard, the Air National Guard, the active reserve components of the  
35 United States, where individuals in those organizations are properly identified. For  
36 purposes of this section, proper identification includes the Armed Forces  
37 Identification Card, or other written documentation certifying that the individual is  
38 an active or honorably retired member.

39 (11) Any person who is authorized to carry loaded firearms pursuant to Section  
40 26025 or 26030.

1 (12) Persons who are the holders of a special weapons permit issued by the  
2 department pursuant to [Section 12095, 12230 12250], or Article 3 (commencing  
3 with Section 18900) of Chapter 1 of Division 5 of Title 2.

4 (b) The following persons who take title or possession of a handgun by  
5 operation of law in a representative capacity, until or unless they transfer title  
6 ownership of the handgun to themselves in a personal capacity, are exempted from  
7 the handgun safety certificate requirement in subdivision (a) of Section 31615:

8 (1) The executor or administrator of an estate.

9 (2) A secured creditor or an agent or employee thereof when the firearms are  
10 possessed as collateral for, or as a result of, or an agent or employee thereof when  
11 the firearms are possessed as collateral for, or as a result of, a default under a  
12 security agreement under the Commercial Code.

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

15 (4) A receiver performing the functions of a receiver.

16 (5) A trustee in bankruptcy performing the duties of a trustee.

17 (6) An assignee for the benefit of creditors performing the functions of an  
18 assignee.

19 **Comment.** Section 31700 continues former Section 12807 without substantive change.

20 See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450  
21 (“department”), 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”),  
22 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

23 **Staff Note.** Existing Section 12807(b)(2) is garbled. It refers to:

24 A secured creditor or an agent or employee thereof when the firearms are possessed as  
25 collateral for, or as a result of, or an agent or employee thereof when the firearms are  
26 possessed as collateral for, or as a result of, a default under a security agreement under the  
27 Commercial Code.

28 The staff suspects that there was an accidental repetition, and the following is what was actually  
29 intended:

30 A secured creditor or an agent or employee thereof when the firearms are possessed as  
31 collateral for, or as a result of, ~~or an agent or employee thereof when the firearms are~~  
32 ~~possessed as collateral for, or as a result of,~~ a default under a security agreement under the  
33 Commercial Code.

34 We were tempted to make this correction in drafting proposed Section 31700(b)(2). Because  
35 this is a strictly nonsubstantive study and the Commission is striving to minimize any concern  
36 that the proposed legislation would have a substantive impact, we preserved the existing language  
37 instead.

38 Does the Commission agree with that cautious approach, or would it be better to make the  
39 correction in the context of this study and note the matter in the preliminary part of the  
40 Commission’s report? Input on this point would be helpful.

41 Unless the Commission otherwise directs, we will proceed with proposed Section 31700 as  
42 shown above and add the apparent drafting flaw to the Commission’s list of “Minor Clean-up  
43 Issues for Possible Future Legislative Attention.”

1 **§ 31705. Exception for sale, delivery, or transfer to authorized law enforcement**  
2 **representative of city, county, city and county, or state or federal government**

3 31705. (a) Subdivision (a) of Section 31615 does not apply to any sale, delivery,  
4 or transfer of firearms made to an authorized law enforcement representative of  
5 any city, county, city and county, or state, or of the federal government, for  
6 exclusive use by that governmental agency if, prior to the sale, delivery, or transfer  
7 of these firearms, written authorization from the head of the agency authorizing  
8 the transaction is presented to the person from whom the purchase, delivery, or  
9 transfer is being made.

10 (b) Proper written authorization is defined as verifiable written certification from  
11 the head of the agency by which the purchaser or transferee is employed,  
12 identifying the employee as an individual authorized to conduct the transaction,  
13 and authorizing the transaction for the exclusive use of the agency by which that  
14 person is employed.

15 (c) Within 10 days of the date a handgun is acquired by the agency, a record of  
16 the same shall be entered as an institutional weapon into the Automated Firearms  
17 System (AFS) via the California Law Enforcement Telecommunications System  
18 (CLETS) by the law enforcement or state agency. Any agency without access to  
19 AFS shall arrange with the sheriff of the county in which the agency is located to  
20 input this information via this system.

21 **Comment.** Section 31705 continues former Section 12078(a)(2) without substantive change, as  
22 that provision applied to former Section 12801(b).

23 For other exceptions relating to law enforcement, see Sections 31700, 31710-31720, 31730.

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

25 **§ 31710. Exception for loan of firearm to peace officer employee for use in performing**  
26 **official duties**

27 31710. Subdivision (a) of Section 31615 does not apply to the loan of a firearm  
28 if all of the following conditions are satisfied:

29 (a) The loan is made by an authorized law enforcement representative of a city,  
30 county, or city and county, or of the state or federal government.

31 (b) The loan is made to a peace officer employed by that agency and authorized  
32 to carry a firearm.

33 (c) The loan is made for the carrying and use of that firearm by that peace  
34 officer in the course and scope of the officer’s duties.

35 **Comment.** Section 31710 continues former Section 12078(a)(3) without substantive change, as  
36 that provision applied to former Section 12801(b).

37 For other exceptions relating to law enforcement, see Sections 31700-31705, 31715-31720,  
38 31730.

39 See Section 16520 (“firearm”).

1 **§ 31715. Exception for sale, delivery, or transfer by law enforcement agency to peace officer**  
2 **pursuant to Public Contract Code**

3 31715. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery,  
4 or transfer of a firearm by a law enforcement agency to a peace officer pursuant to  
5 Section 10334 of the Public Contract Code.

6 (b) Within 10 days of the date that a handgun is sold, delivered, or transferred  
7 pursuant to Section 10334 of the Public Contract Code to that peace officer, the  
8 name of the officer and the make, model, serial number, and other identifying  
9 characteristics of the firearm being sold, delivered, or transferred shall be entered  
10 into the Automated Firearms System (AFS) via the California Law Enforcement  
11 Telecommunications System (CLETS) by the law enforcement or state agency that  
12 sold, delivered, or transferred the firearm. Any agency without access to AFS shall  
13 arrange with the sheriff of the county in which the agency is located to input this  
14 information via this system.

15 **Comment.** Section 31715 continues former Section 12078(a)(4) without substantive change, as  
16 that provision applied to former Section 12801(b).

17 For other exceptions relating to law enforcement, see Sections 31700-31710, 31720, 31730.

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

19 **§ 31720. Exception for sale, delivery, or transfer by law enforcement agency to retiring**  
20 **peace officer authorized to carry concealed and loaded firearm**

21 31720. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery,  
22 or transfer of a firearm by a law enforcement agency to a retiring peace officer  
23 who is authorized to carry a firearm pursuant to Chapter 5 (commencing with  
24 Section 26300) of Division 5.

25 (b) Within 10 days of the date that a handgun is sold, delivered, or transferred to  
26 that retiring peace officer, the name of the officer and the make, model, serial  
27 number, and other identifying characteristics of the firearm being sold, delivered,  
28 or transferred shall be entered into the Automated Firearms System (AFS) via the  
29 California Law Enforcement Telecommunications System (CLETS) by the law  
30 enforcement or state agency that sold, delivered, or transferred the firearm. Any  
31 agency without access to AFS shall arrange with the sheriff of the county in which  
32 the agency is located to input this information via this system.

33 **Comment.** Section 31720 continues former Section 12078(a)(5) without substantive change, as  
34 that provision applied to former Section 12801(b).

35 For other exceptions relating to law enforcement, see Sections 31700-31715, 31730.

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

37 **§ 31725. Exception for sale, delivery, or transfer to governmental entity as part of program**  
38 **in which entity is acquiring weapons from private individuals**

39 31725. (a) Subdivision (a) of Section 31615 does not apply to a sale, delivery, or  
40 transfer of firearms if both of the following requirements are satisfied:

1 (1) The sale, delivery, or transfer is to an authorized representative of a city, city  
2 and county, county, or state government, or of the federal government, and is for  
3 the governmental entity.

4 (2) The entity is acquiring the weapon as part of an authorized, voluntary  
5 program in which the entity is buying or receiving weapons from private  
6 individuals.

7 (b) Any weapons acquired pursuant to this section shall be disposed of pursuant  
8 to the applicable provisions of Section [12032] or Sections 18000 and 18005.

9 **Comment.** Section 31725 continues former Section 12078(a)(6) without substantive change, as  
10 that provision applied to former Section 12801(b).

11 See Section 16520 (“firearm”).

12 **§ 31730. Exception for sale, delivery, loan, or transfer by law enforcement representative to**  
13 **nonprofit historical society, museum, or institutional collection**

14 31730. Subdivision (a) of Section 31615 does not apply to the sale, delivery,  
15 loan, or transfer of a firearm made by an authorized law enforcement  
16 representative of a city, county, city and county, or state, or of the federal  
17 government, to any public or private nonprofit historical society, museum, or  
18 institutional collection, or the purchase or receipt of that firearm by that public or  
19 private nonprofit historical society, museum, or institutional collection, if all of the  
20 following conditions are met:

21 (a) The entity receiving the firearm is open to the public.

22 (b) The firearm prior to delivery is deactivated or rendered inoperable.

23 (c) The firearm is not subject to any of the following:

24 (1) Division 4 (commencing with Section 18250) of Title 2.

25 (2) Sections 18000 and 18005.

26 (3) [Section 12030].

27 (4) [Section 12032].

28 (d) The firearm is not prohibited by other provisions of law from being sold,  
29 delivered, or transferred to the public at large.

30 (e) Prior to delivery, the entity receiving the firearm submits a written statement  
31 to the law enforcement representative stating that the firearm will not be restored  
32 to operating condition, and will either remain with that entity, or if subsequently  
33 disposed of, will be transferred in accordance with the applicable provisions listed  
34 in Section 16575 and, if applicable, Section 31615.

35 (f) Within 10 days of the date that the firearm is sold, loaned, delivered, or  
36 transferred to that entity, all of the following information shall be reported to the  
37 department in a manner prescribed by the department:

38 (1) The name of the government entity delivering the firearm.

39 (2) The make, model, serial number, and other identifying characteristics of the  
40 firearm.

41 (3) The name of the person authorized by the entity to take possession of the  
42 firearm.

1 (g) In the event of a change in the status of the designated representative, the  
2 entity shall notify the department of a new representative within 30 days.

3 **Comment.** Section 31730 continues former Section 12078(a)(7) without substantive change, as  
4 that provision applied to former Section 12801(b).

5 For other exceptions relating to law enforcement, see Sections 31700-31720. For another  
6 exception relating to a nonprofit historical society, museum, or institutional collection, see  
7 Section 31735.

8 See Section 16520 (“firearm”).

9 **§ 31735. Exception for sale, delivery, loan, or transfer by person other than law**  
10 **enforcement representative to nonprofit historical society, museum, or institutional**  
11 **collection**

12 31735. Subdivision (a) of Section 31615 does not apply to the sale, delivery,  
13 loan, or transfer of a firearm made by any person other than a representative of an  
14 authorized law enforcement agency to any public or private nonprofit historical  
15 society, museum, or institutional collection, if all of the following conditions are  
16 met:

17 (a) The entity receiving the firearm is open to the public.

18 (b) The firearm is deactivated or rendered inoperable prior to delivery.

19 (c) The firearm is not of a type prohibited from being sold, delivered, or  
20 transferred to the public.

21 (d) Prior to delivery, the entity receiving the firearm submits a written statement  
22 to the person selling, loaning, or transferring the firearm stating that the firearm  
23 will not be restored to operating condition, and will either remain with that entity,  
24 or if subsequently disposed of, will be transferred in accordance with the  
25 applicable provisions listed in Section 16575 and, if applicable, with Section  
26 31615.

27 (e) If title to a handgun is being transferred to the public or private nonprofit  
28 historical society, museum, or institutional collection, then the designated  
29 representative of that entity shall, within 30 days of taking possession of that  
30 handgun, forward by prepaid mail or deliver in person to the Department of  
31 Justice, a single report signed by both parties to the transaction, which includes all  
32 of the following information:

33 (1) Information identifying the person representing the public or private  
34 historical society, museum, or institutional collection.

35 (2) Information on how title was obtained and from whom.

36 (3) A description of the firearm in question.

37 (4) A copy of the written statement referred to in subdivision (d).

38 (f) The report forms that are to be completed pursuant to this section shall be  
39 provided by the Department of Justice.

40 (g) In the event of a change in the status of the designated representative, the  
41 entity shall notify the department of a new representative within 30 days.

42 **Comment.** Section 31735 continues former Section 12078(a)(8) without substantive change, as  
43 that provision applied to former Section 12801(b).



1 For another exception relating to a nonprofit historical society, museum, or institutional  
2 collection, see Section 31730.

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

4 **§ 31740. Exception for sales, deliveries, or transfers of firearms between or to licensed**  
5 **importers and manufacturers**

6 31740. Subdivision (a) of Section 31615 does not apply to sales, deliveries, or  
7 transfers of firearms between or to importers and manufacturers of firearms  
8 licensed to engage in that business pursuant to Chapter 44 (commencing with  
9 Section 921) of Title 18 of the United States Code and the regulations issued  
10 pursuant thereto.

11 **Comment.** Section 31740 continues former Section 12078(b)(1) without substantive change,  
12 as that provision applied to former Section 12801(b).

13 See Section 16520 (“firearm”).

14 **§ 31745. Exception for sale, delivery, or transfer of handgun to dealer acting in course and**  
15 **scope of activities as dealer**

16 31745. Subdivision (a) of Section 31615 shall not apply to the sale, delivery, or  
17 transfer of a handgun to a person licensed pursuant to Sections 26700 to 26915,  
18 inclusive, where the licensee is receiving the handgun in the course and scope of  
19 the licensee’s activities as a person licensed pursuant to Sections 26700 to 26915,  
20 inclusive.

21 **Comment.** Section 31745 continues former Section 12078(b)(2) without substantive change.

22 See Sections 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
23 Sections 26700 to 26915, inclusive”).

24 **§ 31750. Exception for loan of firearm if lender is constantly in presence of recipient, loan is**  
25 **for 3 days or less, and other requirements are met**

26 31750. Subdivision (a) of Section 31615 does not apply to the loan of a firearm  
27 if all of the following conditions exist:

28 (a) The person loaning the firearm is at all times within the presence of the  
29 person being loaned the firearm.

30 (b) The loan is for a lawful purpose.

31 (c) The loan does not exceed three days in duration.

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

34 (e) The person loaning the firearm is 18 years of age or older.

35 (f) The person being loaned the firearm is 18 years of age or older.

36 **Comment.** Section 31750 continues former Section 12078(d)(2) without substantive change,  
37 as that provision applied to former Section 12801(b).

38 See Section 16520 (“firearm”).

39 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See  
40 2008 Cal. Stat. ch. 698.

1    **§ 31755. Exception for service or repair by gunsmith**

2    31755. Subdivision (a) of Section 31615 does not apply to the delivery of a  
3    firearm to a gunsmith for service or repair, or to the return of the firearm to its  
4    owner by the gunsmith.

5    **Comment.** Section 31755 continues former Section 12078(e) without substantive change, as  
6    that provision applied to former Section 12801(b).

7    See Sections 16520 (“firearm”), 16630 (“gunsmith”).

8    **§ 31760. Exception for sale, delivery, or transfer by resident to licensed nonresident**

9    31760. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
10   transfer of firearms if all of the following requirements are satisfied:

11   (a) The sale, delivery, or transfer is made by a person who resides in this state.

12   (b) The sale, delivery, or transfer is made to a person who resides outside this  
13   state and is licensed pursuant to Chapter 44 (commencing with Section 921) of  
14   Title 18 of the United States Code and the regulations issued pursuant thereto.

15   (c) The sale, delivery, or transfer is in accordance with Chapter 44 (commencing  
16   with Section 921) of Title 18 of the United States Code and the regulations issued  
17   pursuant thereto.

18   **Comment.** Section 31760 continues former Section 12078(f) without substantive change, as  
19   that provision applied to former Section 12801(b).

20   See Section 16520 (“firearm”).

21   **§ 31765. Exception for loan of firearm to person 18 or older for target shooting under**  
22   **specified circumstances**

23   31765. Subdivision (a) of Section 31615 does not apply to the loan of a firearm  
24   to a person 18 years of age or older for the purposes of shooting at targets if either  
25   of the following conditions is satisfied:

26   (a) The loan occurs on the premises of a target facility that holds a business or  
27   regulatory license and the firearm is at all times kept within the premises of the  
28   target range.

29   (b) The loan occurs on the premises of any club or organization organized for  
30   the purposes of practicing shooting at targets upon established ranges, whether  
31   public or private, and the firearm is at all times kept on the premises of the club or  
32   organization.

33   **Comment.** Section 31765 continues former Section 12078(h) without substantive change, as  
34   that provision applied to former Section 12801(b).

35   For another exception relating to target shooting, see Section 31800.

36   See Section 16520 (“firearm”).

37   **§ 31770. Exception for deliveries, transfers, or returns made pursuant to certain statutes**

38   31770. Subdivision (a) of Section 31615 does not apply to deliveries, transfers,  
39   or returns of firearms made pursuant to any of the following:

40   (a) Division 4 (commencing with Section 18250) of Title 2.

41   (b) Sections 18000 and 18005.

1 (c) [Section 12021.3].

2 (d) [Section 12030].

3 **Comment.** Section 31770 continues former Section 12078(j) without substantive change, as  
4 that provision applied to former Section 12801(b).

5 See Section 16520 (“firearm”).

6 **§ 31775. Exception for sale, delivery, or transfer of unloaded firearms, other than**  
7 **handguns, by dealer to another dealer**

8 31775. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
9 transfer of firearms if all of the following conditions are satisfied:

10 (a) The firearms are unloaded.

11 (b) The firearms are not handguns.

12 (c) The sale, delivery, or transfer is made by a dealer to another dealer, upon  
13 proof of compliance with the requirements of Section 27555.

14 **Comment.** Section 31775 continues former Section 12078(k)(1) without substantive change,  
15 as that provision applied to former Section 12801(b).

16 See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person  
17 licensed pursuant to Sections 26700 to 26915, inclusive”).

18 **Staff Note.** This exception appears unnecessary, because the prohibition in proposed Section  
19 31615(a) applies *only* to handguns, and this exception relates to firearms that are *not* handguns.  
20 The staff has included it here because existing Section 12078(k) says:

21 (k) Section 12071, subdivision (c) of Section 12072, and *subdivision (b) of Section 12801*  
22 *shall not apply to any of the following:*

23 (1) The delivery, sale, or transfer of unloaded firearms that are not handguns by a dealer to  
24 another dealer upon proof of compliance with the requirements of paragraph (1) of  
25 subdivision (f) of Section 12072.

26 ....

27 (Emphasis added.) “[S]ubdivision (b) of Section 12801” would be continued in proposed Section  
28 31615(a). Thus, proposed Section 31775 would simply track the language pertaining to  
29 “subdivision (b) of Section 12801” that is now found in Section 12078(k). We would be reluctant  
30 to omit that language in the context of this strictly nonsubstantive study, because that might raise  
31 concerns about a substantive change.

32 But the possibility of deleting the exception as surplusage might be worth considering in the  
33 future, in a different study. Unless the Commission otherwise directs, we will add this issue to the  
34 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

35 **§ 31780. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed**  
36 **nonresident**

37 31780. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
38 transfer of unloaded firearms by a dealer to a person who resides outside this state  
39 and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18  
40 of the United States Code and the regulations issued pursuant thereto.

41 **Comment.** Section 31780 continues former Section 12078(k)(2) without substantive change,  
42 as that provision applied to former Section 12801(b).

43 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
44 Sections 26700 to 26915, inclusive”).

1 **§ 31785. Exception for return of unloaded firearms to wholesaler to treat as merchandise**

2 31785. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
3 transfer of unloaded firearms to a wholesaler if the firearms are being returned to  
4 the wholesaler and are intended as merchandise in the wholesaler’s business.

5 **Comment.** Section 31785 continues former Section 12078(k)(3) without substantive change,  
6 as that provision applied to former Section 12801(b).

7 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
8 Sections 26700 to 26915, inclusive”), 17340 (“wholesaler”).

9 **§ 31790. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another**  
10 **dealer to treat as merchandise**

11 31790. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
12 transfer of firearms if all of the following conditions are satisfied:

13 (a) The firearms are unloaded.

14 (b) The sale, delivery, or transfer is made by one dealer to another dealer, upon  
15 proof of compliance with the requirements of Section 27555.

16 (c) The firearms are intended as merchandise in the receiving dealer’s business

17 **Comment.** Section 31790 continues former Section 12078(k)(4) without substantive change,  
18 as that provision applied to former Section 12801(b).

19 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
20 Sections 26700 to 26915, inclusive”).

21 **§ 31795. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun,**  
22 **by dealer to self**

23 31795. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
24 transfer of an unloaded firearm, other than a handgun, by a dealer to himself or  
25 herself.

26 **Comment.** Section 31795 continues former Section 12078(k)(5) without substantive change,  
27 as that provision applied to former Section 12801(b).

28 See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person  
29 licensed pursuant to Sections 26700 to 26915, inclusive”).

30 **Staff Note.** This exception appears unnecessary, because the prohibition in proposed Section  
31 31615(a) applies *only* to handguns, and this exception relates to firearms that are *not* handguns.  
32 The staff has included it here because existing Section 12078(k) says:

33 (k) Section 12071, subdivision (c) of Section 12072, and *subdivision (b) of Section 12801*  
34 *shall not apply to any of the following:*

35 .....

36 (5) The delivery, sale, or transfer of an unloaded firearm that is not a handgun by a dealer  
37 to himself or herself.

38 .....

39 (Emphasis added.) “[S]ubdivision (b) of Section 12801” would be continued in proposed Section  
40 31615(a). Thus, proposed Section 31795 would simply track the language pertaining to  
41 “subdivision (b) of Section 12801” that is now found in Section 12078(k). We would be reluctant  
42 to omit that language in the context of this strictly nonsubstantive study, because that might raise  
43 concerns about a substantive change.

1 But the possibility of deleting the exception as surplusage might be worth considering in the  
2 future, in a different study. Unless the Commission otherwise directs, we will add this issue to the  
3 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

4 **§ 31800. Exception for loan of unloaded firearm under specified circumstances by dealer to**  
5 **person at target facility or at premises of target shooting club or organization**

6 31800. (a) Subdivision (a) of Section 31615 does not apply to the loan of an  
7 unloaded firearm if all of the following conditions are satisfied:

8 (1) The loan is made by a dealer who also operates a target facility that holds a  
9 business or regulatory license on the premises of the building designated in the  
10 license.

11 (2) The loan is made to a person at that target facility.

12 (3) The firearm is at all times kept within the premises of the target facility.

13 (b) Subdivision (a) of Section 31615 does not apply to the loan of an unloaded  
14 firearm if all of the following conditions are satisfied:

15 (1) The loan is made by a dealer whose building designated in the license is on  
16 the premises of any club or organization organized for the purposes of practicing  
17 shooting at targets upon established ranges, whether public or private.

18 (2) The loan is made to a person at that club or organization.

19 (3) The firearm is at all times kept within the premises of the club or  
20 organization.

21 **Comment.** Section 31800 continues former Section 12078(k)(6) without substantive change,  
22 as that provision applied to former Section 12801(b).

23 For another exception relating to target shooting, see Section 31765.

24 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
25 Sections 26700 to 26915, inclusive”).

26 **§ 31805. Exception for sale, delivery, or transfer of unloaded firearms to wholesaler by**  
27 **another wholesaler or by licensed manufacturer or importer**

28 31805. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or  
29 transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler’s  
30 business by a manufacturer or importer licensed to engage in that business  
31 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United  
32 States Code and the regulations issued pursuant thereto, or by another wholesaler,  
33 if the sale, delivery, or transfer is made in accordance with Chapter 44  
34 (commencing with Section 921) of Title 18 of the United States Code.

35 **Comment.** Section 31805 continues former Section 12078(m) without substantive change, as  
36 that provision applied to former Section 12072(d).

37 See Sections 16520 (“firearm”), 17340 (“wholesaler”).

38 **§ 31810. Exception for certain situations involving minor**

39 31810. Subdivision (a) of Section 31615 does not apply to or affect the  
40 following circumstances:

41 (a) The loan of a handgun to a minor by the minor’s parent or legal guardian, if  
42 both of the following requirements are satisfied:

1 (1) The minor is being loaned the firearm for the purposes of engaging in a  
2 lawful, recreational sport, including, but not limited to, competitive shooting, or  
3 agricultural, ranching, or hunting activity, or a motion picture, television, or video  
4 production, or entertainment or theatrical event, the nature of which involves the  
5 use of a firearm.

6 (2) The duration of the loan does not exceed the amount of time that is  
7 reasonably necessary to engage in the lawful, recreational sport, including, but not  
8 limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a  
9 motion picture, television, or video production, or entertainment or theatrical  
10 event, the nature of which involves the use of a firearm.

11 (b) The loan of a handgun to a minor by a person who is not the minor's parent  
12 or legal guardian, if all of the following requirements are satisfied:

13 (1) The minor is accompanied by the minor's parent or legal guardian when the  
14 loan is made, or the minor has the written consent of the minor's parent or legal  
15 guardian, which is presented at the time of the loan, or earlier.

16 (2) The minor is being loaned the firearm for the purpose of engaging in a  
17 lawful, recreational sport, including, but not limited to, competitive shooting, or  
18 agricultural, ranching, or hunting activity, or a motion picture, television, or video  
19 production, or entertainment or theatrical event, the nature of which involves the  
20 use of a firearm.

21 (3) The duration of the loan does not exceed the amount of time that is  
22 reasonably necessary to engage in the lawful, recreational sport, including, but not  
23 limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a  
24 motion picture, television, or video production, or entertainment or theatrical  
25 event, the nature of which involves the use of a firearm.

26 (4) The duration of the loan does not, in any event, exceed 10 days.

27 **Comment.** Subdivision (a) of Section 31810 continues former Section 12078(p)(3) without  
28 substantive change, as that provision applied to former Section 12801(b).

29 Subdivision (b) continues former Section 12078(p)(2) without substantive change, as that  
30 provision applied to former Section 12801(b).

31 See Sections 16520 ("firearm"), 16640 ("handgun").

32 **§ 31815. Exception for infrequent loan of unloaded firearm for use solely as prop**

33 31815. Subdivision (a) of Section 31615 does not apply to the loan of a firearm  
34 if all of the following requirements are satisfied:

35 (a) The loan is infrequent, as defined in Section 16730.

36 (b) The firearm is unloaded.

37 (c) The loan is made by a person who is neither a dealer nor a federal firearms  
38 licensee pursuant to Chapter 44 of Title 18 of the United States Code.

39 (d) The loan is made to a person 18 years of age or older.

40 (e) The loan is for use solely as a prop in a motion picture, television, video,  
41 theatrical, or other entertainment production or event.

42 **Comment.** Section 31815 continues former Section 12078(s)(1) without substantive change, as  
43 that provision applied to former Section 12801(b).

1 For other exceptions pertaining to firearms used as props, see Sections 31820-31825.  
2 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
3 Sections 26700 to 26915, inclusive”).

4 **§ 31820. Exception loan of unloaded firearm, for use solely as prop, by federal firearms**  
5 **licensee to person with entertainment firearms permit**

6 31820. (a) Subdivision (a) of Section 31615 does not apply to the loan of a  
7 firearm if all of the following requirements are satisfied:

8 (1) The firearm is unloaded.  
9 (2) The loan is made by a person who is not a dealer but is a federal firearms  
10 licensee pursuant to Chapter 44 of Title 18 of the United States Code.

11 (3) The loan is made to a person who possesses a valid entertainment firearms  
12 permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division  
13 8.

14 (4) The firearm is loaned for use solely as a prop in a motion picture, television,  
15 video, theatrical, or other entertainment production or event.

16 (b) The person loaning the firearm pursuant to this section shall retain a  
17 photocopy of the entertainment firearms permit as proof of compliance with this  
18 requirement.

19 **Comment.** Section 31820 continues former Section 12078(s)(2) without substantive change, as  
20 that provision applied to former Section 12801(b).

21 For other exceptions pertaining to firearms used as props, see Sections 31815 and 31825.  
22 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
23 Sections 26700 to 26915, inclusive”).

24 **§ 31825. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person**  
25 **with entertainment firearms permit**

26 31825. (a) Subdivision (a) of Section 31615 does not apply to the loan of a  
27 firearm if all of the following conditions are satisfied:

28 (1) The firearm is unloaded.  
29 (2) The loan is made by a dealer.

30 (3) The loan is made to a person who possesses a valid entertainment firearms  
31 permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division  
32 8.

33 (4) The firearm is loaned solely for use as a prop in a motion picture, television,  
34 video, theatrical, or other entertainment production or event.

35 (b) The dealer shall retain a photocopy of the entertainment firearms permit as  
36 proof of compliance with this requirement.

37 **Comment.** Section 31825 continues former Section 12078(s)(3) without substantive change, as  
38 that provision applied to former Section 12801(b).

39 For other exceptions pertaining to firearms used as props, see Sections 31815-31820.  
40 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to  
41 Sections 26700 to 26915, inclusive”).

1 **§ 31830. Exception for short-term loan of unloaded firearm by dealer to consultant-**  
2 **evaluator**

3 31830. (a) Subdivision (a) of Section 31615 does not apply to the loan of an  
4 unloaded firearm to a consultant-evaluator by a person licensed pursuant to  
5 Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the  
6 date of delivery.

7 (b) At the time of the loan, the consultant-evaluator shall provide the following  
8 information, which the dealer shall retain for two years:

9 (1) A photocopy of a valid, current, government-issued identification to  
10 determine the consultant-evaluator's identity, including, but not limited to, a  
11 California driver's license, identification card, or passport.

12 (2) A photocopy of the consultant-evaluator's valid, current certificate of  
13 eligibility.

14 (3) A letter from the person licensed as an importer, manufacturer, or dealer  
15 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United  
16 States Code, with whom the consultant-evaluator has a bona fide business  
17 relationship. The letter shall detail the bona fide business purposes for which the  
18 firearm is being loaned and confirm that the consultant-evaluator is being loaned  
19 the firearm as part of a bona fide business relationship.

20 (4) The signature of the consultant-evaluator on a form indicating the date the  
21 firearm is loaned and the last day the firearm may be returned.

22 **Comment.** Section 31830 continues former Section 12078(s)(4) without substantive change, as  
23 that provision applied to former Section 12801(b).

24 See Sections 16410 ("consultant-evaluator"), 16520 ("firearm"), 26700 ("dealer," "licensee,"  
25 or "person licensed pursuant to Sections 26700 to 26915, inclusive").

26 Article 4. "Unsafe Handgun" and Related Definitions

27 **§ 31900. "Drop safety requirement for handguns"**

28 31900. As used in this part, the "drop safety requirement for handguns" means  
29 that at the conclusion of the firing requirements for handguns described in Section  
30 31905, the same certified independent testing laboratory shall subject the same  
31 three handguns of the make and model for which certification is sought, to the  
32 following test:

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



1 condition that it would be in if it were dropped from a hand (cocked with no  
2 manual safety applied). If the pistol is designed so that upon leaving the hand a  
3 “safety” is automatically applied by the pistol, this feature shall not be defeated.  
4 An approved drop fixture is a short piece of string with the weapon attached at one  
5 end and the other end held in an air vise until the drop is initiated.

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

7 (1) Normal firing position with barrel horizontal.

8 (2) Upside down with barrel horizontal.

9 (3) On grip with barrel vertical.

10 (4) On muzzle with barrel vertical.

11 (5) On either side with barrel horizontal.

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

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

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

18 **Comment.** Section 31900 continues former Section 12128 without substantive change.

19 For the definition of “unsafe handgun,” see Section 31910. For rules governing unsafe  
20 handguns, see Sections 32000-32030. For exceptions to those rules, see Sections 32100  
21 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105  
22 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

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

25 **Staff Note.** For discussion of why this definition is located here instead of in the  
26 “Definitions” portion of new Part 6, see Memorandum 2008-42, pp. 9-10; Minutes (Sept. 2008),  
27 p. 7.

## 28 § 31905. “Firing requirement for handguns”

29 31905. (a) As used in this part, “firing requirement for handguns” means a test  
30 in which the manufacturer provides three handguns of the make and model for  
31 which certification is sought to an independent testing laboratory certified by the  
32 Attorney General pursuant to Section 32010. These handguns may not be refined  
33 or modified in any way from those that would be made available for retail sale if  
34 certification is granted. The magazines of a tested pistol shall be identical to those  
35 that would be provided with the pistol to a retail customer.

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

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

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

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

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

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

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

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

19 **Comment.** Section 31905 continues former Section 12127 without substantive change.

20 For the definition of “unsafe handgun,” see Section 31910. For rules governing unsafe  
21 handguns, see Sections 32000-32030. For exceptions to those rules, see Sections 32100  
22 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105  
23 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

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

26 **Staff Note.** For discussion of why this definition is located here instead of in the  
27 “Definitions” portion of new Part 6, see Memorandum 2008-42, pp. 10-14; Minutes (Sept. 2008),  
28 p. 7.

29 **§ 31910. “Unsafe handgun”**

30 31910. As used in this part, “unsafe handgun” means any pistol, revolver, or  
31 other firearm capable of being concealed upon the person, for which any of the  
32 following is true:

33 (a) For a revolver:

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

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

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

40 (b) For a pistol:

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

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

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

3 (4) Commencing January 1, 2006, for a center fire semiautomatic pistol that is  
4 not already listed on the roster pursuant to Section 32015, it does not have either a  
5 chamber load indicator, or a magazine disconnect mechanism.

6 (5) Commencing January 1, 2007, for all center fire semiautomatic pistols that  
7 are not already listed on the roster pursuant to Section 32015, it does not have both  
8 a chamber load indicator and if it has a detachable magazine, a magazine  
9 disconnect mechanism.

10 (6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are  
11 not already listed on the roster pursuant to Section 32015, it does not have a  
12 magazine disconnect mechanism, if it has a detachable magazine.

13 (7)(A) Commencing January 1, 2010, for all semiautomatic pistols that are not  
14 already listed on the roster pursuant to Section 32015, it is not designed and  
15 equipped with a microscopic array of characters that identify the make, model, and  
16 serial number of the pistol, etched or otherwise imprinted in two or more places on  
17 the interior surface or internal working parts of the pistol, and that are transferred  
18 by imprinting on each cartridge case when the firearm is fired, provided that the  
19 Department of Justice certifies that the technology used to create the imprint is  
20 available to more than one manufacturer unencumbered by any patent restrictions.

21 (B) The Attorney General may also approve a method of equal or greater  
22 reliability and effectiveness in identifying the specific serial number of a firearm  
23 from spent cartridge casings discharged by that firearm than that which is set forth  
24 in this paragraph, to be thereafter required as otherwise set forth by this paragraph  
25 where the Attorney General certifies that this new method is also unencumbered  
26 by any patent restrictions. Approval by the Attorney General shall include notice  
27 of that fact via regulations adopted by the Attorney General for purposes of  
28 implementing that method for purposes of this paragraph.

29 (C) The microscopic array of characters required by this section shall not be  
30 considered the name of the maker, model, manufacturer's number, or other mark  
31 of identification, including any distinguishing number or mark assigned by the  
32 Department of Justice, within the meaning of Sections 23900 and 23920.

33 **Comment.** Section 31910 continues the introductory clause and subdivisions (a) and (b) of  
34 former Section 12126 without substantive change.

35 For rules governing unsafe handguns, see Sections 32000-32030. For exceptions to those rules,  
36 see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain  
37 specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110  
38 (other exceptions).

39 See Sections 16380 ("chamber load indicator"), 16500 ("drop safety requirement for  
40 handguns"), 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"  
41 "pistol," and "revolver"), 16560 ("firing requirement for handguns"), 16640 ("handgun"), 16900  
42 ("magazine disconnect mechanism"), 17010 ("pistol"), 17080 ("revolver"), 17140  
43 ("semiautomatic pistol").

1 **☞ Staff Note.** For discussion of why this definition is located here instead of in the  
2 “Definitions” portion of new Part 6, see Memorandum 2008-42, pp. 10-14; Minutes (Sept. 2008),  
3 p. 7.

4 Article 5. Rules Governing Unsafe Handguns

5 **§ 32000. Manufacture, import, sale, gift, or loan of unsafe handgun**

6 32000. (a) Commencing January 1, 2001, any person in this state who  
7 manufactures or causes to be manufactured, imports into the state for sale, keeps  
8 for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be  
9 punished by imprisonment in a county jail not exceeding one year.

10 (b) This section shall not apply to any of the following:

11 (1) The manufacture in this state, or importation into this state, of any prototype  
12 pistol, revolver, or other firearm capable of being concealed upon the person when  
13 the manufacture or importation is for the sole purpose of allowing an independent  
14 laboratory certified by the Department of Justice pursuant to Section 32010 to  
15 conduct an independent test to determine whether that pistol, revolver, or other  
16 firearm capable of being concealed upon the person is prohibited by Sections  
17 31900 to 32110, inclusive, and, if not, allowing the department to add the firearm  
18 to the roster of pistols, revolvers, and other firearms capable of being concealed  
19 upon the person that may be sold in this state pursuant to Section 32015.

20 (2) The importation or lending of a pistol, revolver, or other firearm capable of  
21 being concealed upon the person by employees or authorized agents of entities  
22 determining whether the weapon is prohibited by this section.

23 (3) Firearms listed as curios or relics, as defined in Section 478.11 of Title 27 of  
24 the Code of Federal Regulations.

25 (4) The sale or purchase of any pistol, revolver or other firearm capable of being  
26 concealed upon the person, if the pistol, revolver, or other firearm is sold to, or  
27 purchased by, the Department of Justice, any police department, any sheriff’s  
28 official, any marshal’s office, the Youth and Adult Correctional Agency, the  
29 California Highway Patrol, any district attorney’s office, or the military or naval  
30 forces of this state or of the United States for use in the discharge of their official  
31 duties. Nor shall anything in this section prohibit the sale to, or purchase by, sworn  
32 members of these agencies of any pistol, revolver, or other firearm capable of  
33 being concealed upon the person.

34 (c) Violations of subdivision (a) are cumulative with respect to each handgun  
35 and shall not be construed as restricting the application of any other law. However,  
36 an act or omission punishable in different ways by this section and other  
37 provisions of law shall not be punished under more than one provision, but the  
38 penalty to be imposed shall be determined as set forth in Section 654.

39 **Comment.** Section 32000 continues former Section 12125 without substantive change.

40 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
41 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
42 in Olympic target shooting events), 32110 (other exceptions).

1 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
2 “pistol,” and “revolver”), 16640 (“handgun”), 31910 (“unsafe handgun”).

3 In addition to the provisions in this chapter, a number of other provisions within this part  
4 pertain specifically to handguns. For example, see Sections 25400-25700 (carrying concealed  
5 firearm), 26010 (person licensed to carry pistol, revolver, or other firearm capable of being  
6 concealed upon the person), 26300-26325 (retired peace officer carrying concealed and loaded  
7 firearm), 26820 (display of handgun or imitation or placard advertising handgun), 26840  
8 (presentation of basic firearms safety certificate or handgun safety certificate to dealer), 26845  
9 (no handgun delivery without proof of California residency), 26850-26859 (safe handling  
10 demonstration with handgun), 26905 (reporting of handgun acquisitions), 26960 (waiting period  
11 exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self  
12 or another dealer), 27505 (transfer of handgun to person under age 21), 27510 (dealer that  
13 supplies, delivers, or gives possession or control of handgun to person under age 21), 27530  
14 (transfer of handgun that lacks identifying information), 27560 (restrictions on personal handgun  
15 importer), 27565 (handgun that is curio or relic, transported into California by licensed collector),  
16 27660 (waiting period exception for sale, delivery, or transfer of handgun, not intended as  
17 merchandise, by dealer to self or another dealer), 27875 (exception for infrequent transfer of  
18 handgun between members of same immediate family), 27920 (exception for person who takes  
19 title or possession of handgun by operation of law), 28160 (form for handgun), 29610-29615  
20 (possession of handgun by minor). See also Sections 30300 (sale of handgun ammunition or  
21 reloaded handgun ammunition to person under age 21), 30315-30325 (restrictions relating to  
22 handgun ammunition designed primarily to penetrate metal or armor).

23 **§ 32005. Certification of manufacturer, importer, or seller**

24 32005. (a) Every person who is licensed as a manufacturer of firearms pursuant  
25 to Chapter 44 (commencing with Section 921) of Title 18 of the United States  
26 Code and who manufactures firearms in this state shall certify under penalty of  
27 perjury and any other remedy provided by law that every model, kind, class, style,  
28 or type of pistol, revolver, or other firearm capable of being concealed upon the  
29 person that the person manufactures is not an unsafe handgun as prohibited by  
30 Sections 31900 to 32110, inclusive.

31 (b) Every person who imports into the state for sale, keeps for sale, or offers or  
32 exposes for sale any firearm shall certify under penalty of perjury and any other  
33 remedy provided by law that every model, kind, class, style, or type of pistol,  
34 revolver, or other firearm capable of being concealed upon the person that the  
35 person imports, keeps, or exposes for sale is not an unsafe handgun as prohibited  
36 by Sections 31900 to 32110, inclusive.

37 **Comment.** Section 32005 continues former Section 12129 without substantive change.

38 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
39 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
40 in Olympic target shooting events), 32110 (other exceptions).

41 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
42 “pistol,” and “revolver”), 31910 (“unsafe handgun”).

43 **§ 32010. Laboratory testing**

44 32010. (a) Any pistol, revolver, or other firearm capable of being concealed  
45 upon the person manufactured in this state, imported into the state for sale, kept  
46 for sale, or offered or exposed for sale, shall be tested within a reasonable period

1 of time by an independent laboratory certified pursuant to subdivision (b) to  
2 determine whether that pistol, revolver, or other firearm capable of being  
3 concealed upon the person meets or exceeds the standards defined in Section  
4 31910.

5 (b) On or before October 1, 2000, the Department of Justice shall certify  
6 laboratories to verify compliance with the standards defined in Section 31910. The  
7 department may charge any laboratory that is seeking certification to test any  
8 pistol, revolver, or other firearm capable of being concealed upon the person  
9 pursuant to Sections 31900 to 32110, inclusive, a fee not exceeding the costs of  
10 certification.

11 (c) The certified testing laboratory shall, at the manufacturer's or importer's  
12 expense, test the firearm and submit a copy of the final test report directly to the  
13 Department of Justice along with a prototype of the weapon to be retained by the  
14 department. The department shall notify the manufacturer or importer of its receipt  
15 of the final test report and the department's determination as to whether the  
16 firearm tested may be sold in this state.

17 (d)(1) Commencing January 1, 2006, no center-fire semiautomatic pistol may be  
18 submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it does not  
19 have either a chamber load indicator, or a magazine disconnect mechanism if it  
20 has a detachable magazine.

21 (2) Commencing January 1, 2007, no center-fire semiautomatic pistol may be  
22 submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it does not  
23 have both a chamber load indicator and a magazine disconnect mechanism.

24 (3) Commencing January 1, 2006, no rimfire semiautomatic pistol may be  
25 submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it has a  
26 detachable magazine, and does not have a magazine disconnect mechanism.

27 **Comment.** Section 32010 continues former Section 12130 without substantive change.

28 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
29 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
30 in Olympic target shooting events), 32110 (other exceptions).

31 See Sections 16380 ("chamber load indicator"), 16520 ("firearm"), 16530 ("firearm capable of  
32 being concealed upon the person," "pistol," and "revolver"), 16900 ("magazine disconnect  
33 mechanism"), 17140 ("semiautomatic pistol").

34 **Staff Notes.**

35 (1) Existing Section 12130(b) says:

36 (b) On or before October 1, 2000, the Department of Justice shall certify laboratories to  
37 verify compliance with the standards defined in Section 12126. The department may charge  
38 any laboratory that is seeking certification to test any pistol, revolver, or other firearm  
39 capable of being concealed upon the person pursuant to this chapter a fee not exceeding the  
40 costs of certification.

41 The staff closely tracked this language in drafting proposed Section 32010(b), shown above.

42 We think that provision would be more clear, however, if it was revised as follows:

43 (b) On or before October 1, 2000, the Department of Justice shall certify laboratories to  
44 verify compliance with the standards defined in Section 31910. The department may charge

1 any laboratory ~~that is~~ seeking certification a fee to test any pistol, revolver, or other firearm  
2 capable of being concealed upon the person pursuant to Sections 31900 to 32110, inclusive, ~~a~~  
3 ~~fee not exceeding~~. The fee shall not exceed the costs of certification.

4 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any  
5 concern that the proposed legislation would have a substantive impact, we do not recommend  
6 making such revisions in this study. They might be worth considering in the future. Unless the  
7 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-  
8 up Issues for Possible Future Legislative Attention.”

9 (2) Existing Section 12130(d) twice refers to “a chamber load indicator *as defined in*  
10 *subdivision (c) of Section 12126.*” (Emphasis added.) The same subdivision also refers three  
11 times to “a magazine disconnect mechanism *as defined in subdivision (d) of Section 12126.*”  
12 (Emphasis added.)

13 In proposed Section 32010, we have:

- 14 (1) Replaced those references with “a chamber load indicator” and “a magazine disconnect  
15 mechanism.”
- 16 (2) Included a reference to the definition of “chamber load indicator” in the Comment.
- 17 (3) Included a reference to the definition of “magazine disconnect mechanism” in the  
18 Comment.
- 19 (4) Stated in the Comment that “Section 32010 continues former Section 12130 without  
20 substantive change.”

21 We chose this approach because it would further the Legislature’s directive to “[a]void  
22 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of  
23 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great  
24 weight to the Commission’s comments, we think this would be sufficient to preserve the  
25 substance of Section 12130. See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n Reports  
26 1, 17-23 (2007).

### 27 § 32015. Roster prepared by Department of Justice

28 32015. (a) On and after January 1, 2001, the Department of Justice shall  
29 compile, publish, and thereafter maintain a roster listing all of the pistols,  
30 revolvers, and other firearms capable of being concealed upon the person that have  
31 been tested by a certified testing laboratory, have been determined not to be unsafe  
32 handguns, and may be sold in this state pursuant to this part. The roster shall list,  
33 for each firearm, the manufacturer, model number, and model name.

34 (b)(1) The department may charge every person in this state who is licensed as a  
35 manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921)  
36 of Title 18 of the United States Code, and any person in this state who  
37 manufactures or causes to be manufactured, imports into the state for sale, keeps  
38 for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable  
39 of being concealed upon the person in this state, an annual fee not exceeding the  
40 costs of preparing, publishing, and maintaining the roster pursuant to subdivision  
41 (a) and the costs of research and development, report analysis, firearms storage,  
42 and other program infrastructure costs necessary to implement Sections 31900 to  
43 32110, inclusive.

44 (2) Any pistol, revolver, or other firearm capable of being concealed upon the  
45 person that is manufactured by a manufacturer who manufactures or causes to be

1 manufactured, imports into the state for sale, keeps for sale, or offers or exposes  
2 for sale any pistol, revolver, or other firearm capable of being concealed upon the  
3 person in this state, and who fails to pay any fee required pursuant to paragraph  
4 (1), may be excluded from the roster.

5 (3) If a purchaser has initiated a transfer of a handgun that is listed on the roster  
6 as not unsafe, and prior to the completion of the transfer, the handgun is removed  
7 from the roster of not unsafe handguns because of failure to pay the fee required to  
8 keep that handgun listed on the roster, the handgun shall be deliverable to the  
9 purchaser if the purchaser is not otherwise prohibited from purchasing or  
10 possessing the handgun. However, if a purchaser has initiated a transfer of a  
11 handgun that is listed on the roster as not unsafe, and prior to the completion of the  
12 transfer, the handgun is removed from the roster pursuant to subdivision (d) of  
13 Section 32020, the handgun shall not be deliverable to the purchaser.

14 **Comment.** Section 32015 continues former Section 12131(a)-(b) without substantive change.

15 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
16 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
17 in Olympic target shooting events), 32110 (other exceptions).

18 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
19 “pistol,” and “revolver”), 16640 (“handgun”), 31910 (“unsafe handgun”).

20 **§ 32020. Retesting of handgun models on roster**

21 32020. (a) The Attorney General may annually retest up to 5 percent of the  
22 handgun models that are listed on the roster described in subdivision (a) of Section  
23 32015.

24 (b) The retesting of a handgun model pursuant to subdivision (a) 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 (c) The retest shall be conducted in the same manner as the testing prescribed in  
37 Sections 31900 and 31905.

38 (d) If the handgun model fails retesting, the Attorney General shall remove the  
39 handgun model from the roster maintained pursuant to subdivision (a) of Section  
40 32015.

41 **Comment.** Section 32020 continues former Section 12131(c)-(f) without substantive change.



1 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
2 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
3 in Olympic target shooting events), 32110 (other exceptions).

4 See Section 16640 (“handgun”).

5 **§ 32025. Reinstatement of handgun model on roster**

6 32025. A handgun model removed from the roster pursuant to subdivision (d) of  
7 Section 32020 may be reinstated on the roster if all of the following are met:

8 (a) The manufacturer petitions the Attorney General for reinstatement of the  
9 handgun model.

10 (b) The manufacturer pays the Department of Justice for all of the costs related  
11 to the reinstatement testing of the handgun model, including the purchase price of  
12 the handguns, prior to reinstatement testing.

13 (c) The reinstatement testing of the handguns shall be in accordance with  
14 subdivisions (b) and (c) of Section 32020.

15 (d) The three handgun samples shall be tested only once for reinstatement. If the  
16 sample fails it may not be retested.

17 (e) If the handgun model successfully passes testing for reinstatement, and if the  
18 manufacturer of the handgun is otherwise in compliance with Sections 31900 to  
19 32110, inclusive, the Attorney General shall reinstate the handgun model on the  
20 roster maintained pursuant to subdivision (a) of Section 32015.

21 (f) The manufacturer shall provide the Attorney General with the complete  
22 testing history for the handgun model.

23 (g) Notwithstanding subdivision (a) of Section 32020, the Attorney General  
24 may, at any time, further retest any handgun model that has been reinstated to the  
25 roster.

26 **Comment.** Section 32025 continues former Section 12131(g) without substantive change.

27 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
28 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
29 in Olympic target shooting events), 32110 (other exceptions).

30 See Section 16640 (“handgun”).

31 **§ 32030. Firearm differing in insignificant respects from listed firearm**

32 32030. (a) A firearm shall be deemed to satisfy the requirements of subdivision  
33 (a) of Section 32015 if another firearm made by the same manufacturer is already  
34 listed and the unlisted firearm differs from the listed firearm only in one or more  
35 of the following features:

36 (1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or  
37 engraving.

38 (2) The material from which the grips are made.

39 (3) The shape or texture of the grips, so long as the difference in grip shape or  
40 texture does not in any way alter the dimensions, material, linkage, or functioning  
41 of the magazine well, the barrel, the chamber, or any of the components of the  
42 firing mechanism of the firearm.

1 (4) Any other purely cosmetic feature that does not in any way alter the  
2 dimensions, material, linkage, or functioning of the magazine well, the barrel, the  
3 chamber, or any of the components of the firing mechanism of the firearm.

4 (b) Any manufacturer seeking to have a firearm listed under this section shall  
5 provide to the Department of Justice all of the following:

6 (1) The model designation of the listed firearm.

7 (2) The model designation of each firearm that the manufacturer seeks to have  
8 listed under this section.

9 (3) A statement, under oath, that each unlisted firearm for which listing is sought  
10 differs from the listed firearm only in one or more of the ways identified in  
11 subdivision (a) and is in all other respects identical to the listed firearm.

12 (c) The department may, in its discretion and at any time, require a manufacturer  
13 to provide to the department any model for which listing is sought under this  
14 section, to determine whether the model complies with the requirements of this  
15 section.

16 **Comment.** Section 32030 continues former Section 12131.5 without substantive change.

17 For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot  
18 pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used  
19 in Olympic target shooting events), 32110 (other exceptions).

20 See Section 16520 (“firearm”).

21 Article 6. Exceptions to Rules Governing Unsafe  
22 Handguns

23 **§ 32100. Exception for single-shot pistol or single-action revolver meeting certain**  
24 **specifications**

25 32100. (a) Articles 4 (commencing with Section 31900) and 5 (commencing  
26 with Section 32000) shall not apply to a single-action revolver that has at least a 5-  
27 cartridge capacity with a barrel length of not less than three inches, and meets any  
28 of the following specifications:

29 (1) Was originally manufactured prior to 1900 and is a curio or relic, as defined  
30 in Section 478.11 of Title 27 of the Code of Federal Regulations.

31 (2) Has an overall length measured parallel to the barrel of at least 7-1/2 inches  
32 when the handle, frame or receiver, and barrel are assembled.

33 (3) Has an overall length measured parallel to the barrel of at least 7-1/2 inches  
34 when the handle, frame or receiver, and barrel are assembled and that is currently  
35 approved for importation into the United States pursuant to the provisions of  
36 paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States  
37 Code.

38 (b) Articles 4 (commencing with Section 31900) and 5 (commencing with  
39 Section 32000) shall not apply to a single-shot pistol with a barrel length of not  
40 less than six inches and that has an overall length of at least 10-1/2 inches when  
41 the handle, frame or receiver, and barrel are assembled.

42 **Comment.** Section 32100 continues former Section 12133 without substantive change.

1 See Section 16520 (“firearm capable of being concealed upon the person,” “pistol,” and  
2 “revolver”).

3 **§ 32105. Exception for pistols used in Olympic target shooting events**

4 32105. (a) The Legislature finds a significant public purpose in exempting  
5 pistols that are designed expressly for use in Olympic target shooting events.  
6 Therefore, those pistols that are sanctioned by the International Olympic  
7 Committee and by USA Shooting, the national governing body for international  
8 shooting competition in the United States, and that were used for Olympic target  
9 shooting purposes as of January 1, 2001, and that fall within the definition of  
10 “unsafe handgun” pursuant to paragraph (3) of subdivision (b) of Section 31910  
11 shall be exempt, as provided in subdivisions (b) and (c).

12 (b) Articles 4 (commencing with Section 31900) and 5 (commencing with  
13 Section 32000) shall not apply to any of the following pistols, because they are  
14 consistent with the significant public purpose expressed in subdivision (a):

15	MANUFACTURER	MODEL	CALIBER
16	ANSCHUTZ	FP	.22LR
17	BENELLI	MP90	.22LR
18	BENELLI	MP90	.32 S&W LONG
19	BENELLI	MP95	.22LR
20	BENELLI	MP95	.32 S&W LONG
21	DRULOV	FP	.22LR
22	GREEN	ELECTROARM	.22LR
23	HAMMERLI	100	.22LR
24	HAMMERLI	101	.22LR
25	HAMMERLI	102	.22LR
26	HAMMERLI	162	.22LR
27	HAMMERLI	280	.22LR
28	HAMMERLI	280	.32 S&W LONG
29	HAMMERLI	FP10	.22LR

1	HAMMERLI	MP33	.22LR
2	HAMMERLI	SP20	.22LR
3	HAMMERLI	SP20	.32 S&W LONG
4	MORINI	CM102E	.22LR
5	MORINI	22M	.22LR
6	MORINI	32M	.32 S&W LONG
7	MORINI	CM80	.22LR
8	PARDINI	GP	.22 SHORT
9	PARDINI	GPO	.22 SHORT
10	PARDINI	GP-SCHUMANN	.22 SHORT
11	PARDINI	HP	.32 S&W LONG
12	PARDINI	K22	.22LR
13	PARDINI	MP	.32 S&W LONG
14	PARDINI	PGP75	.22LR
15	PARDINI	SP	.22LR
16	PARDINI	SPE	.22LR
17	SAKO	FINMASTER	.22LR
18	STEYR	FP	.22LR
19	VOSTOK	IZH NO. 1	.22LR
20	VOSTOK	MU55	.22LR
21	VOSTOK	TOZ35	.22LR
22	WALTHER	FP	.22LR
23	WALTHER	GSP	.22LR
24	WALTHER	GSP	.32 S&W LONG

1       WALTHER                   OSP                   .22 SHORT  
2       WALTHER                   OSP-2000           .22 SHORT

3       (c) The department shall create a program that is consistent with the purpose  
4 stated in subdivision (a) to exempt new models of competitive firearms from  
5 Articles 4 (commencing with Section 31900) and 5 (commencing with Section  
6 32000). The exempt competitive firearms may be based on recommendations by  
7 USA Shooting consistent with the regulations contained in the USA Shooting  
8 Official Rules or may be based on the recommendation or rules of any other  
9 organization that the department deems relevant.

10       **Comment.** Section 32105 continues former Section 12132(h) without substantive change.

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

13       ☞ **Staff Note.** Existing Section 12132(h)(1) refers to “pistols that ... are used for Olympic target  
14 shooting purposes *at the time that the act adding this subdivision is enacted ...*” (Emphasis  
15 added.) Subdivision (h) was added to Section 12131 by 2000 Cal. Stat. ch. 967, § 2, which  
16 became operative on January 1, 2001.

17       Proposed Section 32105(a) would continue Section 12132(h)(1), but would directly state the  
18 operative date of January 1, 2001, instead of referring to “the time that the act adding subdivision  
19 (h) to former Section 12132 was enacted.” This approach is intended to help make the provision  
20 user-friendly, without effecting any substantive change. We encourage comment on this drafting  
21 decision.

22       **§ 32110. Other exceptions**

23       32110. Articles 4 (commencing with Section 31900) and 5 (commencing with  
24 Section 32000) shall not apply to any of the following:

25       (a) The sale, loan, or transfer of any firearm pursuant to Chapter 5 (commencing  
26 with Section 28050) of Division 6 in order to comply with Section 27545.

27       (b) The sale, loan, or transfer of any firearm that is exempt from the provisions  
28 of Section 27545 pursuant to any applicable exemption contained in Article 2  
29 (commencing with Section 27600) or 6 (commencing with Section 27850) of  
30 Chapter 4 of Division 6, if the sale, loan, or transfer complies with the  
31 requirements of that applicable exemption to Section 27545.

32       (c) The sale, loan, or transfer of any firearm as described in [Section  
33 12125(b)(3)].

34       (d) The delivery of a pistol, revolver, or other firearm capable of being  
35 concealed upon the person to a person licensed pursuant to Sections 26700 to  
36 26915, inclusive, for the purposes of the service or repair of that firearm.

37       (e) The return of a pistol, revolver, or other firearm capable of being concealed  
38 upon the person by a person licensed pursuant to Sections 26700 to 26915,  
39 inclusive, to its owner where that firearm was initially delivered in the  
40 circumstances set forth in subdivisions (a), (d), (f) or (i).

41       (f) The delivery of a pistol, revolver, or other firearm capable of being concealed  
42 upon the person to a person licensed pursuant to Sections 26700 to 26915,

1 inclusive, for the purpose of a consignment sale or as collateral for a pawnbroker  
2 loan.

3 (g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of  
4 being concealed upon the person listed as a curio or relic, as defined in Section  
5 478.11 of the Code of Federal Regulations.

6 (h) The sale, loan, or transfer of any semiautomatic pistol that is to be used  
7 solely as a prop during the course of a motion picture, television, or video  
8 production by an authorized participant therein in the course of making that  
9 production or event or by an authorized employee or agent of the entity producing  
10 that production or event.

11 (i) The delivery of a pistol, revolver, or other firearm capable of being concealed  
12 upon the person to a person licensed pursuant to Sections 26700 to 26915,  
13 inclusive, where the firearm is being loaned by the licensee to a consultant-  
14 evaluator.

15 (j) The delivery of a pistol, revolver, or other firearm capable of being concealed  
16 upon the person by a person licensed pursuant to Sections 26700 to 26915,  
17 inclusive, where the firearm is being loaned by the licensee to a consultant-  
18 evaluator.

19 (k) The return of a pistol, revolver, or other firearm capable of being concealed  
20 upon the person to a person licensed pursuant to Sections 26700 to 26915,  
21 inclusive, where it was initially delivered pursuant to subdivision (j).

22 **Comment.** Subdivisions (a)-(g) of Section 32110 continue former Section 12132(a)-(g)  
23 without substantive change.

24 Subdivisions (h)-(k) continue former Section 12132(i)-(l) without substantive change.

25 See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 16530 (“firearm capable of  
26 being concealed upon the person,” “pistol,” and “revolver”).

27 **Staff Note.** Existing Section 12132(g) refers to “a curio or relic, *as defined in Section 178.11*  
28 *of the Code of Federal Regulations.*” The reference to Section 178.11 of the Code of Federal  
29 Regulations is incorrect. There is no such provision.

30 However, there is a Section 478.11 of the Code of Federal Regulations, which contains a  
31 definition of “curio or relic.” That is almost certainly the correct reference here.

32 The staff has corrected the cross-reference in drafting proposed Section 32110(g). This  
33 approach seems more reasonable than perpetuating an obviously incorrect reference. Although  
34 this is a strictly nonsubstantive study, some degree of commonsense is appropriate in interpreting  
35 existing law. We would exercise such commonsense here and note the situation in the preliminary  
36 part of the Commission’s report.