

#M-300

STATE OF CALIFORNIA

# CALIFORNIA LAW REVISION COMMISSION

*Pre-Print*  
RECOMMENDATION

Nonsubstantive Reorganization  
of Deadly Weapon Statutes

**Note:** This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

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## SUMMARY OF RECOMMENDATION

The Legislature has directed the Law Revision Commission to “study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....” 2006 Cal. Stat. res. ch. 128. The general purpose of the study is to improve the organization and accessibility of the deadly weapons statutes, without making any change to criminal liability under those statutes.

This recommendation was prepared pursuant to that direction. In drafting the proposed law, the Commission took extreme care to ensure that it would not cause any substantive change in the law.

## ACKNOWLEDGMENTS

Comments from knowledgeable persons are invaluable in the Commission's study process. In this study, the Commission is especially grateful to Jason Davis and Lindsay Nichols, who faithfully attended the Commission's meetings to represent the views of gun owners and gun control advocates, respectively. In addition, the Commission is deeply grateful to the Office of Legislative Counsel for providing advance guidance on drafting issues relating to the study. The Commission would also like to express its appreciation to the other individuals and organizations who have taken the time to participate in this study.

Inclusion of the name of an individual or organization should not be taken as an indication of the individual's opinion or the organization's position on any aspect of this recommendation. The Commission regrets any errors or omissions that may have been made in compiling these acknowledgments.

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## NONSUBSTANTIVE REORGANIZATION OF DEADLY WEAPON STATUTES

In 2006, the Legislature enacted Assembly Concurrent Resolution 73 (McCarthy) (hereafter “ACR 73”), which directed the Law Revision Commission to “study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....” The resolution states:

WHEREAS, Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons, is lengthy and complex, and could be simplified; and

WHEREAS, It is the intent of the Legislature that the firearms laws be simplified and reorganized; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Legislature authorizes and requests that the California Law Revision Commission study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons, and that this legislation shall accomplish the following objectives:

(a) Reduce the length and complexity of current sections.

(b) Avoid unnecessary use of cross-references.

(c) Neither expand nor contract the scope of criminal liability under current provisions. In the event that the commission’s draft changes the scope of criminal liability under the current provisions, this shall be made explicit in the commission’s draft or any commentary related to the draft.

(d) To the extent compatible with objective (c), use common definitions of terms.

(e) Organize existing provisions in such a way that similar provisions are located in close proximity to each other.

(f) Eliminate duplicative provisions; and be it further

*Resolved*, That nothing in this resolution shall be construed to prevent the Legislature, prior to receipt of the commission’s recommendations, from enacting any measure related to the Penal Code sections under review by the California Law Revision Commission; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Law Revision Commission and to the author for appropriate distribution.<sup>1</sup>

The impetus for this study appears to have been a veto message by Governor Schwarzenegger, in which he stated:

Before a government exercises its power to take away one’s liberty, it should be clear to every person what actions will cause them to forfeit their freedom. Instead of adding to the lengthy and complex area of firearm laws, a reorganization of the

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

current laws should be undertaken to ensure that statutes that impose criminal penalties are easily understandable.<sup>2</sup>

This recommendation presents draft legislation consistent with the direction provided in ACR 73. The objectives of the proposed law and the methods used in preparing it are discussed more fully below.

## SCOPE OF STUDY

ACR 73 directs the Commission to study, report on, and prepare legislation “concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....” By itself, this directive seems clear, but reading it together with other portions of ACR 73 raises some issues regarding the intended scope of the Commission’s study. Those issues are discussed below.

### **Type of Weapons**

An initial issue is whether the Commission’s study should focus exclusively on provisions relating to firearms, or should also encompass provisions relating to other types of deadly weapons.

The preamble to ACR 73 states that it “is the intent of the Legislature that the firearms laws be simplified and reorganized.” However, the preamble further states that “Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons, is lengthy and complex, and could be simplified ....” These statements are arguably in conflict, but ACR 73 specifically directs the Commission to study, report on, and prepare legislation “concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....”

As introduced, ACR 73 referred only to “firearms.”<sup>3</sup> Significantly, the resolution was later revised to refer to “deadly weapons.”<sup>4</sup>

In light of the language of the resolution and its history, the Commission believes that the study should encompass all deadly weapons. That is the scope of the legislation proposed in this recommendation.

### **Relevant Code Sections**

A second issue is whether the Commission’s study should focus on a specific portion of the Penal Code, or instead encompass any Penal Code provision that relates to the “control of deadly weapons.”

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2. As introduced on June 13, 2005, ACR 73 cited the Governor’s statement as a basis for the resolution. The cited language is from the Governor’s veto message on SB 1140 (Scott) (2004), which would have made changes to provisions regulating the storage of firearms. See also Senate Committee on Judiciary Analysis of ACR 73 (August 24, 2006).

3. See ACR 73 (McCarthy) (as introduced on June 13, 2005).

4. *Id.* (as amended July 12, 2005).

The preamble to ACR 73 refers specifically to “Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons . . . .” The resolution then directs the Commission to study “the portions of the Penal Code relating to the control of deadly weapons . . . .” It is unclear whether this directive refers back to Title 2, or is meant to include all provisions in the Penal Code relating to the control of deadly weapons, regardless of where they are located.

To determine the intent, the Commission examined the analyses and different versions of ACR 73, and discussed the matter with legislative staff. Although other interpretations are possible, the Commission concluded that this study should focus on Title 2 of Part 4 of the Penal Code.<sup>5</sup> The language of ACR 73 is broad enough to permit revision of other provisions relating to deadly weapons if needed, but the bulk of such provisions are in Title 2 and these appear to be the provisions that the Legislature considered in need of attention. That is the approach taken in the proposed law.<sup>6</sup>

### **Sentence Enhancements**

There are some provisions in Title 2 of Part 4 of the Penal Code that do not relate directly to the control of deadly weapons. These provisions establish “sentence enhancements.”<sup>7</sup> A sentence enhancement is a provision that imposes an additional and consecutive term to the base term of punishment for a crime when specified conditions are met.

Many of the sentence enhancements in Title 2 of Part 4 of the Penal Code do not involve deadly weapons at all.<sup>8</sup> Other enhancements involve the use or possession of a deadly weapon during the commission of a crime, but are not generally concerned with regulating the ownership, transfer, sale, or storage of deadly weapons.<sup>9</sup>

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5. Penal Code §§ 12000-12809. Unless otherwise indicated, all further statutory references are to the Penal Code.

6. There is one exception. Section 653k, which is located outside of Title 2, is included within the scope of the proposed law. Section 653k regulates the ownership, sale, and transfer of switchblade knives. It is currently located in a chapter on miscellaneous offenses, which contains a variety of unrelated provisions. ACR 73 directs the Commission to: “Organize existing provisions in such a way that similar provisions are located in close proximity to each other.” In accord with that direction, the proposed law would move the substance of Section 653k to the same location as other provisions regulating knives. See proposed Sections 16965, 17235, 21510 *infra*.

7. Sections 12021.5-12022.95.

8. See Sections 12022.1 (secondary offense), 12022.6 (taking or damaging property), 12022.7 (great bodily injury), 12022.75 (administration of controlled substance), 12022.8 (infliction of great bodily injury in committing sexual offense), 12022.85 (sexual offense by person with AIDS), 12022.9 (crime causing termination of pregnancy), 12022.95 (injury to child).

9. See Sections 12021.5 (street gang crimes), 12022 (possession or use of firearm or dangerous weapon), 12022.2 (armor piercing ammunition or body vest), 12022.3 (sexual offenses), 12022.4 (furnishing firearm used in crime), 12022.5(a) (personal use of firearm in commission of felony), 12022.53

The proposed law would leave these sentence enhancement provisions unchanged, in their current location in the Penal Code.<sup>10</sup> They would not be included within the reorganized body of statutes governing the control of deadly weapons.

There are two reasons for this approach. First, the sentence enhancement provisions do not primarily concern the control of deadly weapons. Second, it is preferable not to change the section numbers of provisions that are used in calculating criminal sentences. Judges and attorneys rely on a number of tools to assist in calculating sentences. Those tools would need to be updated if the section numbers of the sentence enhancement provisions were changed.

## STUDY OBJECTIVES

### **Improve Accessibility of the Law**

The primary purpose of this study is to simplify and improve the organization of the statutes governing control of deadly weapons, to make them more understandable and useable, without making any substantive changes to that law. The author of ACR 73, Assembly Member Kevin McCarthy, described the need for simplification of the law as follows:

These areas of the law are not for legal experts only. Firearms owners, licensed dealers, and law enforcement need to be able to interpret these provisions in order to comply with the law and avoid criminal liability. Ambiguity and confusion do not promote the public policy goals that those laws were designed to accomplish.

....

Gun owners shouldn't have to consult an attorney specializing in firearms law just to find out what they need to do to avoid committing a crime. Law enforcement should have clear, bright line, easily understandable guidelines on how to enforce these laws. This resolution is offered in the hope that an independent, expert body of legal experts can offer up some helpful suggestions on ways that these laws can be clarified so that our citizens will be able to determine, with relative ease, what the law requires and prohibits in the area of firearms regulation.<sup>11</sup>

In addition to the benefits described by Assembly Member McCarthy, improvement of the clarity and organization of the deadly weapon statutes would

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(personal use or discharge of firearm), 12022.55 (discharge of firearm from vehicle causing great bodily injury).

A few provisions in Title 2 of Part 4 of the Penal Code provide sentence enhancements that are specific to crimes involving the control of deadly weapons. See Sections 12072(g)(4), 12280(a)(2) & (d). These provisions are closely tied to the substance of the sections in which they are located. They would therefore be moved to proposed Part 6, and kept in close proximity to the same substantive material as at present. See proposed Sections 27590, 30600, 30615 *infra*.

10. See proposed Sections 12001-12022.95 ("Title 2. Sentence Enhancements") *infra*.

11. Senate Floor Analysis of ACR 73 (Aug. 26, 2006), pp. 4-5.

also facilitate the future development of the law, by making it easier for the Legislature to assess the state of existing law and thereby avoid redundancy or inconsistency in enacting new provisions.

### **Nonsubstantive Reform**

The proposed law would improve the organizational clarity of the deadly weapons statutes, as intended. However, there is an important limit on the extent to which the Commission can make that law clearer, simpler, or better organized. ACR 73 requires that any reform proposed by the Commission “[n]either expand nor contract the scope of criminal liability under current provisions.”

That limitation has been the controlling principle in the preparation of the proposed law. The Commission has exercised extreme care to ensure that the proposed law would not result in any substantive change in outcome under the affected statutes.

Specific measures taken by the Commission to avoid making any substantive change in the law are described below.

#### ***Objective and Participatory Study Process***

The Commission’s study process is well-suited to the development of a nonsubstantive reform of the deadly weapon statutes, for the following reasons:

- The Commission is neutral and objective, with no special interest in the subject of deadly weapons. The Commission has no motivation to introduce substantive changes into the deadly weapon statutes.
- The Commission has prior experience in drafting legislation to recodify complex bodies of law without making any substantive change.<sup>12</sup>
- The Commission’s work is transparent. All materials are publicly distributed. All deliberations are conducted at open public meetings.
- The Commission actively solicits input from affected interest groups. Interim drafts of the proposed law are provided to those groups for review. Any objection that a change would have a substantive effect is carefully analyzed and addressed by the Commission.
- In proposing legislative reform, the Commission prepares a thorough explanatory report that explains the purpose and effect of the proposed law, and sets out a complete draft of the proposed legislation, with a detailed table of contents and a table showing the disposition of every affected section. This report facilitates public review of the proposed law.

#### ***Commission Comments***

In preparing a recommendation, the Commission drafts an explanatory “Comment” for every section that is added, amended, or repealed.<sup>13</sup> A Comment

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12. For example, the Commission recently recommended the nonsubstantive recodification of the civil discovery statutes, an important and sensitive body of law. See *Civil Discovery: Nonsubstantive Reform*, 33 Cal. L. Revision Comm’n Reports 789 (2003); enacted as 2004 Cal. Stat. ch. 182.

indicates the derivation of a section and often explains its purpose, its relation to other law, and potential issues concerning its meaning or application.

The Comments in this recommendation state expressly, for each affected section, that the proposed law is not intended to make any change to the substance of the affected provision.

On completion of a final recommendation, the full recommendation, including the proposed legislation and the Comments, will be presented to the Legislature and the Governor. If legislation is introduced to effectuate the proposed law, the full recommendation will be provided to each member of every policy committee that reviews the legislation.

Commission materials that have been placed before and considered by the Legislature are considered evidence of legislative intent,<sup>14</sup> and are entitled to great weight in construing statutes.<sup>15</sup> The materials are a key interpretive aid for practitioners as well as courts,<sup>16</sup> and courts may judicially notice and rely on them.<sup>17</sup> Courts at all levels of the state<sup>18</sup> and federal<sup>19</sup> judicial systems use

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13. The Comments follow each section of the proposed legislation *infra*.

14. See, e.g., *Fair v. Bakhtiari*, 40 Cal. 4th 189, 195, 147 P.3d 653, 657, 51 Cal. Rptr. 3d 871, 875 (2006) (“The Commission’s official comments are deemed to express the Legislature’s intent.”); *People v. Williams*, 16 Cal. 3d 663, 667-68, 547 P.2d 1000, 128 Cal. Rptr. 888 (1976) (“The official comments of the California Law Revision Commission on the various sections of the Evidence Code are declarative of the intent not only of the draft[ers] of the code but also of the legislators who subsequently enacted it.”).

15. See, e.g., *Dep’t of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.*, 40 Cal. 4th 1, 12-13 n.9, 145 P.3d 462, 469 n.9, 50 Cal. Rptr. 3d 585, 593 n.9 (2006) (Commission’s official comments are persuasive evidence of Legislature’s intent); *Hale v. S. Cal. IPA Med. Group, Inc.*, 86 Cal. App. 4th 919, 927, 103 Cal. Rptr. 2d 773, 778 (2001):

In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute. (*Kern v. County of Imperial* (1990) 226 Cal.App.3d 391, 400, fn. 8, 276 Cal.Rptr. 524; *Coopers & Lybrand v. Superior Court* (1989) 212 Cal.App.3d 524, 535, fn. 7, 260 Cal. Rptr. 713.) In particular, reports and interpretive opinions of the Law Revision Commission are entitled to great weight. (*Schmidt v. Southern Cal. Rapid Transit Dist.* (1993) 14 Cal.App.4th 23, 30, fn. 10, 17 Cal.Rptr.2d 340.)

16. *Cf.* 7 B. Witkin, *Summary of California Law Constitutional Law* § 123, at 230 (10th ed. 2005) (Commission reports as aid to construction); Gaylord, *An Approach to Statutory Construction*, 5 Sw. U. L. Rev. 349, 384 (1973).

17. See, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 133 Cal. App. 4th 26, 34 Cal. Rptr. 3d 520 (2005) (providing overview of materials that may be judicially noticed in determining legislative intent); *Hale*, 86 Cal. App. 4th at 927; *Barkley v. City of Blue Lake*, 18 Cal. App. 4th 1745, 1751 n.3, 23 Cal. Rptr. 2d 315, 318-19 n.3 (1993).

18. See, e.g., *Sullivan v. Delta Air Lines, Inc.*, 15 Cal. 4th 288, 298, 935 P.2d 781, 63 Cal. Rptr. 2d 74 (1997) (California Supreme Court); *Admin. Mgmt. Services, Inc. v. Fid. & Deposit Co. of Md.*, 129 Cal. App. 3d 484, 488, 181 Cal. Rptr. 141 (1982) (court of appeal); *Rossetto v. Barross*, 90 Cal. App. 4th Supp. 1, 5-6, 110 Cal. Rptr. 2d 255 (2001) (appellate division of superior court).

19. See, e.g., *California v. Green*, 399 U.S. 149, 154 n.3 (1970) (United States Supreme Court); *S. Cal. Bank v. Zimmerman (In re Hilde)*, 120 F.3d 950, 953 (9th Cir. 1997) (federal court of appeals); *Williams v. Townsend*, 283 F. Supp. 580, 582 (C.D. Cal. 1968) (federal district court); *Ford Consumer Fin. Co. v.*

Commission materials to construe statutes enacted on Commission recommendation.<sup>20</sup>

The Commission's Comments will make clear that the proposed law should be construed as an entirely nonsubstantive reorganization of the law.

*Statements of Legislative Intent*

The proposed law would be known as the Deadly Weapons Recodification Act of 2012.<sup>21</sup> It would include a number of codified provisions making clear that the proposed law would continue existing law without any substantive change. That general point would be stated in proposed Section 16005:

16005. Nothing in the Deadly Weapons Recodification Act of 2012 is intended to substantively change the law relating to deadly weapons. The act is intended to be entirely nonsubstantive in effect. Every provision of this part, of Title 2 (commencing with Section 12001) of Part 4, and every other provision of this act, including, without limitation, every cross-reference in every provision of the act, shall be interpreted consistent with the nonsubstantive intent of the act.

In addition, proposed Section 16010 would make clear that a provision of the proposed law is intended as a restatement and continuation of the provision that it restates, and that any reference to a restated provision is deemed to include a reference to the section that restates it (and vice versa):

16010. (a) A provision of this part or of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.

(b) A reference in a statute to a previously existing provision that is restated and continued in this part or in Title 2 (commencing with Section 12001) of Part 4, or

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McDonell (*In re McDonell*), 204 B.R. 976, 978-79 (B.A.P. 9th Cir. 1996) (bankruptcy appellate panel); *In re Garrido*, 43 B.R. 289, 292-93 (Bankr. S.D. Cal. 1984) (bankruptcy court).

20. See, e.g., *Jevne v. Superior Court*, 35 Cal. 4th 935, 947, 111 P.3d 954, 962, 28 Cal. Rptr. 3d 685, 694-95 (2005) (Commission report entitled to substantial weight in construing statute); *Collection Bureau of San Jose v. Rumsey*, 24 Cal. 4th 301, 308 & n.6, 6 P.3d 713, 718 & n.6, 99 Cal. Rptr. 2d 792, 797 & n.6 (2000) (Comments to reenacted statute reiterate the clear understanding and intent of original enactment); *Brian W. v. Superior Court*, 20 Cal. 3d 618, 623, 574 P.2d 788, 791, 143 Cal. Rptr. 717, 720 (1978) (Comments persuasive evidence of Legislature's intent); *Volkswagen Pac., Inc. v. City of Los Angeles*, 7 Cal. 3d 48, 61-63, 496 P.2d 1237, 1247-48, 101 Cal. Rptr. 869, 879-80 (1972) (Comments evidence clear legislative intent of law); *Van Arsdale v. Hollinger*, 68 Cal. 2d 245, 249-50, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968) (Comments entitled to substantial weight), *overruled on other grounds*, *Privette v. Superior Court*, 5 Cal. 4th 689, 696, 854 P.2d 721, 21 Cal. Rptr. 2d 72 (1993); *County of Los Angeles v. Superior Court*, 62 Cal. 2d 839, 843-44, 402 P.2d 868, 870-71, 44 Cal. Rptr. 796, 798-99 (1965) (statutes reflect policy recommended by Commission).

21. See proposed Section 16000 *infra*. In selecting this title, the Commission assumed that because of its magnitude the proposed legislation would not be introduced until the beginning of the 2011-2012 legislative session, and would not be enacted until 2012. The title will require adjustment if the proposed legislation is enacted in a different year.

in any other provision of the Deadly Weapons Recodification Act of 2012, shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.

(c) A reference in a statute to a provision of this part or of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, which is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

The Commission has taken special care to avoid any ambiguity with respect to the operation of provisions that concern repeat offenses. Proposed Section 16015 would expressly state that a conviction under a restated section is also deemed to be a conviction under the section that restates it:

16015. If a previously existing provision is restated and continued in this part, or in Title 2 (commencing with Section 12001) of Part 4, or in any other provision of the Deadly Weapons Recodification Act of 2012, a conviction under that previously existing provision shall, unless a contrary intent appears, be treated as a prior conviction under the restatement and continuation of that provision.

Finally, proposed Sections 16020 and 16025 would make clear that restatement of a provision is not intended to have any effect, positive or negative, on a judicial interpretation of the restated provision or a judicial holding that the provision is unconstitutional:

16020. (a) A judicial decision interpreting a previously existing provision is relevant in interpreting any provision of this part, of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, which restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision affected by the act.

16025. (a) A judicial decision determining the constitutionality of a previously existing provision is relevant in determining the constitutionality of any provision of this part, of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, which restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the constitutionality of any provision affected by the act, or the correctness of any judicial decision determining the constitutionality of any provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any determination of the constitutionality of any provision affected by the act.

By their terms, the provisions discussed above would apply to the entire body of recodified deadly weapon statutes.

### ***Legislative Process***

After the Commission completes its study process and issues a final recommendation, the proposed law would be scrutinized carefully in the legislative process. This would serve as a final safeguard against any unintended substantive change in the law.

## **DRAFTING APPROACH**

### **Structure of Proposed Law**

The proposed law would relocate most of the provisions of existing Title 2 of Part 4 of the Penal Code to a new Part 6 of the Penal Code, commencing with proposed Section 16000.<sup>22</sup>

The provisions of existing Title 2 are organized into two levels: chapters and articles. That provides little organizational flexibility, making it difficult to group similar provisions together unless they are combined into an excessively long section.

By contrast, proposed Part 6 would be organized into four levels: Titles, divisions, chapters, and articles. This provides much greater latitude to group similar provisions together, and then combine similar groupings into a logical hierarchical structure.

This approach complies with the Legislature’s directive to “[o]rganize existing provisions in such a way that similar provisions are located in close proximity to each other.”<sup>23</sup> It allows for a more coherent and intuitive organizational structure, which should make it easier for a reader to find relevant provisions within the statute.

### **Short, Simple Sections**

One of the common complaints about existing Title 2 of Part 4 of the Penal Code is that many of its sections are excessively long. For example, Assembly Member McCarthy noted that “Penal Code Section 12078 is 5,880 words long and occupies 11 pages ....”<sup>24</sup>

Excessively long sections can obscure relevant details of law, especially if a single section addresses several different subjects.

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22. A number of sentence enhancement provisions would not be relocated to new Part 6. See discussion under “Sentence Enhancements” *supra*. The portion of Section 12590 relating to picketing in the uniform of a peace officer would be placed in “Chapter 4.5. Peace Officers” of Title 3 of Part 2 of the Penal Code. See proposed Section 830.95 *infra*.

23. ACR 73.

24. Senate Committee on Judiciary Analysis of ACR 73 (August 24, 2006), p. 4.

A better approach is to divide the law into a larger number of smaller sections, with each section limited to a single subject. Short sections have numerous advantages. They enhance readability and understanding of the law, and make it easier to locate and refer to pertinent material. In contrast to a long section, a short section can be amended without undue technical difficulties and new material can be inserted where logically appropriate, facilitating sound development of the law. The use of short sections is the preferred drafting technique of the California Code Commission,<sup>25</sup> the Legislature,<sup>26</sup> the Legislative Counsel,<sup>27</sup> and the Law Revision Commission.<sup>28</sup>

Moreover, ACR 73 specifically directs the Commission to “[r]educe the length and complexity of current sections.”

For all of the reasons discussed above, the proposed law would divide lengthy sections into shorter and simpler provisions. The number of sections would almost quadruple, but there would be relatively little change in the word count of the governing law.<sup>29</sup>

#### **Definition of Terms**

Under existing law, many definitions are scattered throughout Title 2 of Part 4 of the Penal Code. Some terms are used with different definitions in different contexts,<sup>30</sup> or are defined for some uses but not others.<sup>31</sup> This can create

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25. California Code Commission, *Drafting Rules and Principles for Use of California Code Commission Draftsmen*, 1947-48 Report, app. G, at 4.

26. Senate & Assembly Joint Rule 8 (May 14, 2009).

27. Legislative Counsel of California, *Legislative Drafting Manual* 26-28 (1975).

28. Commission Staff Memorandum 76-24 (Feb. 17, 1976); First Supplement to Commission Staff Memorandum 85-64 (May 31, 1985).

29. Title 2 of Part 4 of the Penal Code consists of 230 sections, with about 95,000 words of text. The proposed legislation (including all material derived from Title 2 of Part 4, whether placed in the title on “Sentence Enhancements,” in proposed Part 6, or elsewhere) would consist of 857 sections, with about 115,500 words of text. The increase in word count is due to the addition of headings, paragraph labels, guidepost provisions, statements of legislative intent, and provisions needed for drafting convenience, and the repetition of exceptions and other material formerly consolidated in Sections 12020, 12028, 12029, and 12078 (see discussion of “Substantive Organization” *infra*).

Proposed Part 6 would commence with proposed Section 16000 *infra*. The Commission deliberately left numbering gaps in proposed Part 6. This will allow for future changes in the law, without resort to decimal numbering.

30. For example, the term “antique firearm” has three different definitions as applied in different contexts: (1) Sections 12001(e), 12078(p)(6)(B), 12085(e)(3), 12088.8(a), and 12801(b) use the same definition of “antique firearm” as in Section 921(a)(16) of Title 18 of the United States Code, (2) Section 12020(b)(5) contains a long, apparently unique definition of “antique firearm,” and (3) Sections 12276.1(d)(3) and 12278(d) define an “antique firearm” as any firearm manufactured before January 1, 1899.

31. For example, the term “loaded” is defined in one way for purposes of Section 12023 (see Section 12001(j)), defined in another way for purposes of Sections 12025(b)(6)(A), 12031, and 12035 (see Sections

uncertainty as to whether any given term is subject to a statutory definition. That may lead to misunderstanding of the law. It may also lead to unintended consequences, if the Legislature uses a defined term without realizing that it would be subject to an already existing definition.

The proposed law would group most of the definitions in a separate division near the beginning of the proposed law, in alphabetical order. The Commission's Comments to sections that use a defined term would include a cross-reference to the applicable definition. This approach would make it easier for members of the public, attorneys, judges, and the Legislature to quickly determine whether a term is subject to a statutory definition. It will also make it easier for the Legislature to identify and review cases where a single term has multiple definitions that are similar but not identical, or is defined for some purposes but not for others. That would facilitate future simplification of the law.<sup>32</sup>

In drafting the definition provisions, the Commission was careful neither to expand nor contract the existing scope of application of any definition. Where an existing definition applies to every use of a term in Title 2 of Part 4 of the Penal Code, the proposed law would provide that the definition applies to every use of that term in proposed Part 6 of the Penal Code. That statement of general application will facilitate the use of uniform definitions in the future. It will allow the Legislature to use a term in its defined sense without the need to draft a new definition provision.

Where an existing definition applies to some but not all uses of a term in Title 2 of Part 4, the proposed law would limit the definition to the same uses as under current law. For example, Section 12126 defines "semiautomatic pistol" for purposes of that section. The term is also used without definition elsewhere in Title 2 of Part 4.<sup>33</sup> To avoid creating a risk of a substantive change, the definition of "semiautomatic pistol" in the proposed law would apply only to the provisions that would continue the substance of Section 12126.<sup>34</sup>

In two cases, the proposed law deviates from the general approach of grouping all definitions together near the beginning of proposed Part 6 of the Penal Code.

First, some existing provisions include common terms that are given special definitions (e.g., "furnishes"<sup>35</sup>). It may not be immediately obvious to a reader of such a provision that the common term has a special definition. That could lead to

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12025(b)(6)(A), 12031(g), and 12035(a)(2)), and is used without definition in other sections (see, e.g., Sections 12031.1, 12036(b), 12040(a)(4)).

32. In conducting this strictly nonsubstantive study, the Commission has identified some instances in which simplification or standardization of a definition or other terminology might be possible in a future reform. See Appendix B (Items #1-#35) *infra*; see also discussion of "Minor Clean-Up Issues for Possible Future Legislative Attention" *infra*.

33. See Sections 12071(b)(8)(D)(i), 12130(d)(1)-(3), 12132(i), 12276.1(a)(4)-(5).

34. See proposed Section 17140 *infra* (defining "semiautomatic pistol" as used in proposed Sections 16900 and 31910).

35. See Section 12552.

misunderstanding of the law. In those cases, the definition is located near the provision that uses the defined term.<sup>36</sup>

Second, some existing provisions mix definitions with substantive rules in complex ways. Rather than separate those definitions from the related substantive rules, the provisions are left largely unchanged and located with other provisions addressing the same substance.<sup>37</sup> In order to help readers find those definitions, the proposed law includes “guidepost” provisions in the definitions division, which refer to definitions that are located elsewhere.<sup>38</sup>

### Substantive Organization

Proposed Part 6 of the Penal Code would be divided into four different titles. Title 1, entitled “Preliminary Provisions,” would include the statements of

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36. See proposed Sections 16730(c) (“transaction”), 17280(b) (“major component”), 19915(b) (“furnishes”), 20170(b) (“public place”), 25000 (“child”), 25200(d) (“off-premises”), 26045(c) (“immediate”), 26915(g) (“secured”), 28150(a)-(b) (“purchase,” “purchaser”), 28150(c) (“sale”), 28170(e) (“transaction”), 28200(a)-(b) (“purchase,” “purchaser”), 28200(c)-(d) (“sale,” “seller”), 30510(f) (“series”), 31905(e) (“malfunction”) *infra*.

37. See proposed Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 29030 (“licensee”), 29141 (“secure facility” for firearm storage by manufacturer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30710 (“SKS rifle”), 31900 (“drop safety requirement for handguns”), 31905 (“firing requirement for handguns”), 31910 (“unsafe handgun”) *infra*.

The provisions defining “.50 BMG cartridge” (proposed Section 30525) and “.50 BMG rifle” (proposed Section 30530) do not mix definitions with substantive rules. The Commission placed them in the chapter on assault weapons and .50 BMG rifles because it might be confusing to have the provisions defining “assault weapon” in that chapter without also including the definitions of “.50 BMG cartridge” and “.50 BMG rifle.”

38. See proposed Sections 16100 (“.50 BMG cartridge” guidepost provision), 16110 (“.50 BMG rifle” guidepost provision), 16200 (“assault weapon” guidepost provision), 16440 (“dealer” guidepost provision), 16500 (“drop safety requirement for handguns” guidepost provision), 16560 (“firing requirement for handguns” guidepost provision), 16820 (“licensee” guidepost provision), 16980 (“person licensed pursuant to Sections 26700 to 26915, inclusive” guidepost provision), 17111 (guidepost provision for “secure facility” for firearm storage by manufacturer), 17220 (“SKS rifle” guidepost provision), 17300 (“unsafe handgun” guidepost provision) *infra*.

The proposed law also includes “guidepost” provisions to help readers when several terms are defined synonymously. For example, proposed Section 16370 would define “certified instructor” and “DOJ Certified Instructor” synonymously, and would be located with other definitions that begin with the letter “C”. A guidepost provision for “DOJ Certified Instructor” would be located with the definitions that begin with the letter “D,” and would state that “[u]se of the term ‘DOJ Certified Instructor’ is governed by Section 16370.” See proposed Section 16480 *infra*. For additional examples, see:

- (1) Proposed Sections 16420 (“dagger” guidepost provision) and 16470 (“dirk” or “dagger”).
- (2) Proposed Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17010 (“pistol” guidepost provision), and 17080 (“revolver” guidepost provision).
- (3) Proposed Sections 16810 (“licensed premises,” “licensee’s business premises,” and “licensee’s place of business”), 16822 (“licensee’s business premises” guidepost provision), and 16824 (“licensee’s place of business” guidepost provision).

legislative intent described above.<sup>39</sup> Title 1 would also include the definitions for new Part 6, in alphabetical order.

Title 2, entitled “Weapons Generally,” would include substantive provisions that apply to all types of deadly weapons, such as the rules pertaining to seizure of a deadly weapon at the scene of domestic violence. Title 2 would also include other laws that relate to both firearms and non-firearms. For example, it would include the provisions governing a “destructive device,” which is defined to include some items that would be classified as a firearm and others that would not.<sup>40</sup>

Title 3, entitled “Weapons and Devices Other Than Firearms,” would include laws governing control of such deadly weapons as imitation firearms, knives, knuckles, nunchakus, and other non-firearms. The title would be divided into divisions, each of which would cover a different type of deadly weapon. The divisions would be arranged in alphabetical order, starting with “BB Devices” and ending with “Tear Gas and Tear Gas Weapons.”

Title 4, entitled “Firearms,” would contain the extensive provisions relating to control of firearms. It would consist of a number of different divisions, including one entitled “Special Rules Relating to Particular Types of Firearms or Firearm Equipment.” Within that division, there would be several different chapters, each of which would cover a different type of firearm or firearm equipment. The chapters would be arranged in alphabetical order, starting with “Ammunition” and ending with “Zip Guns.”

In reorganizing existing law in this manner, the Commission made a few drafting decisions that are particularly noteworthy. These decisions relate to the following provisions:

- Section 12020
- Sections 12028 and 12029
- Section 12078

The treatment of these provisions is described below.

#### ***Section 12020***

Section 12020 is an extremely long provision that generally prohibits the manufacture, import, sale, gift, loan, or possession of a panoply of weapons and associated equipment. The provision includes numerous exemptions, some of which relate to a broad range of weapons, while others relate to only one specific type of weapon.<sup>41</sup> Thus, a person interested in the rules applicable to a particular

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39. See discussion of “Statements of Intent” *supra*.

40. See proposed Section 16460 *infra*, which would continue the definition of “destructive device” currently found in Section 12301(a).

41. See Section 12020(b)(1)-(32).

type of weapon may have to read much irrelevant material before finding the relevant portions of Section 12020.

To make it easier for persons to find the relevant rules, the Commission divided up the substance of Section 12020 according to the type of weapon or equipment to which it pertains. For example, the rules relating to short-barreled rifles and short-barreled shotguns would be placed in a chapter with other provisions relating to those types of weapons.<sup>42</sup> Similarly, the many rules relating to large-capacity magazines would be placed in a chapter on large-capacity magazines.<sup>43</sup>

Some of the exemptions in Section 12020 are broad. They pertain to more than one type of weapon or equipment, and do not clearly specify which items are within their scope.<sup>44</sup>

Ideally, it would be possible to determine which items are covered by a broad exemption, and to state the exemption in the division, chapter, or article for each item covered. Because it is not entirely clear which items are covered, however, the broad exemptions could not be treated in that manner without creating a risk of a substantive change.<sup>45</sup>

Instead, the proposed law would place the broad exemptions in a chapter within the title on “Weapons Generally.”<sup>46</sup> The entire chapter (as opposed to specific provisions within the chapter) would be cross-referenced in every section prohibiting the manufacture, import, sale, gift, loan, or possession of a type of

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42. See proposed Sections 33215-33225 *infra*.

43. See proposed Sections 32310, 32400-32450 *infra*.

For a list of all of the provisions that would continue the substance of the weapon prohibitions in Section 12020(a), see proposed Section 16590 *infra*, which would define the term “generally prohibited weapon” to include all of the items now covered by Section 12020(a).

44. For example, paragraph (b)(9) creates an exemption for an instrument or device possessed by a historical society, museum, or institutional collection:

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

....

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

Other broad exemptions are stated in paragraphs (b)(5), (b)(7)-(8), (b)(10)-(13), and (b)(16)-(18).

45. For example, it is unclear whether the exemption for “an instrument or device” possessed by a historical society, museum, or institutional collection (paragraph (b)(9)) would extend to a flechette dart, which is a type of ammunition. A court might consider that exemption inapplicable to a flechette dart, because some of the other exemptions in Section 12020 specifically refer to “ammunition,” not just to “an instrument or device.” But such an interpretation is not a foregone conclusion.

The Commission could try to predict which interpretation a court would adopt, and then either include or omit the exemption from the portion of the code relating to flechette darts, in accordance with its prediction. That would necessarily entail a risk of a substantive change, however, because the Commission’s prediction might be incorrect.

46. See proposed Sections 17700-17745 *infra*.

weapon or equipment that was covered by Section 12020.<sup>47</sup> That would draw attention to the broad exemptions, without taking a position on whether a particular exemption pertains to a particular type of weapon or equipment.<sup>48</sup>

#### ***Sections 12028 and 12029***

Section 12028 is another provision that pertains to a variety of weapons. It states that certain weapons constitute a nuisance under specified circumstances. The section also provides procedures for surrender and disposal of those weapons. Section 12029 is quite similar, except it classifies different weapons as a nuisance and the procedures for surrender and disposal of those weapons are much less detailed.

The Commission treated these two provisions the same way as Section 12020, dividing up their substance according to the type of weapon or equipment to which it pertains.<sup>49</sup> The generally applicable procedures for surrender and disposal of weapons would be placed in the title on “Weapons Generally,”<sup>50</sup> and cross-referenced in each weapon-specific provision derived from the same section.<sup>51</sup> The cross-reference would help a reader find the procedures for surrender and disposal of the weapon in question.

#### ***Section 12078***

Section 12078 is an enormous provision that consists of 48 different exceptions, each of which relates to one or more enumerated code sections. As so drafted, the meaning of each exception is difficult to grasp without careful study.

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47. For example, proposed Section 20610 would state:

20610. *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 lipstick case knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.*

(Emphasis added.)

48. The possibility of relocating these provisions could be explored in the future, as a separate law reform project. See discussion of “Minor Clean-Up Issues for Possible Future Legislative Attention” *infra* and Appendix B (Item # 82) *infra*.

49. For example, the substance of Section 12028 relating to a switchblade knife would be continued in a chapter on switchblade knives. See proposed Section 21590 *infra*.

50. See proposed Sections 18000 and 18005, which would continue the surrender and disposal rules from Section 12028, and proposed Section 18010, which would continue the surrender and disposal rules from Section 12029.

51. For example, the provision on switchblade knives constituting a nuisance (proposed Section 21590 *infra*) would cross-refer to proposed Sections 18000 and 18005, which would continue the surrender and disposal rules from Section 12028:

21590. The unlawful possession and carrying of any switchblade knife, as provided in Section 21510, is a nuisance *and is subject to Sections 18000 and 18005.*

(Emphasis added.)

To make the substance of Section 12078 more readily understandable, the proposed legislation would divide it up, such that each exception is stated in close proximity to each substantive rule that it modifies. For example, subdivision (e) of Section 12078 creates an exception relating to gunsmiths: “Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.” In the proposed legislation, that exception for gunsmith transactions would be stated in close proximity to (1) the provisions that would continue Section 12071,<sup>52</sup> (2) the provision that would continue Section 12072(c),<sup>53</sup> (3) the provision that would continue Section 12072(d),<sup>54</sup> and (4) the provision that would continue Section 12801(b).<sup>55</sup> This would make it more easily apparent which substantive rules are modified by the exception.

#### **Unnecessary Cross-References**

ACR 73 directs the Commission to “[a]void unnecessary use of cross-references.” Consistent with that direction, the proposed law would eliminate cross-references where doing so would not affect the meaning of a provision or make it more difficult to understand.

One type of cross-reference that can often be eliminated without affecting the substance of the law is a cross-reference to an applicable definition. As discussed above, the proposed law would group most definitions together near the beginning of proposed Part 6 of the Penal Code, with clear statements indicating the application of each definition. Each section that uses a defined term would have a Commission Comment directing the reader to the applicable definition. This

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52. The substance of Section 12071 (other than definitions) would be continued in proposed Sections 26700-26915 *infra*. The exception for gunsmith transactions would be stated nearby, in proposed Section 27105 *infra*. For convenient reference, it would be located with other exceptions to proposed Sections 26700-26915, and those exceptions would be cross-referenced in the Comments to proposed Sections 26700-26915.

53. The substance of Section 12072(c) would be continued in proposed Section 27540 *infra*. The exception for gunsmith transactions would be stated nearby, in proposed Section 27705 *infra*. For convenient reference, it would be located with other exceptions to proposed Section 27540, and those exceptions would be cross-referenced in the Comment to proposed Section 27540.

54. The substance of Section 12072(d) would be continued in proposed Section 27545 *infra*. The exception for gunsmith transactions would be stated nearby, in proposed Section 27890 *infra*. For convenient reference, it would be located with other exceptions to proposed Section 27545, and those exceptions would be cross-referenced in the Comment to proposed Section 27545.

55. The substance of Section 12801(b) would be continued in proposed Section 31615(a) *infra* (except the definition of “antique firearm”). The exception for gunsmith transactions would be stated nearby, in proposed Section 31755 *infra*. For convenient reference, it would be located with other exceptions to proposed Section 31615(a), and those exceptions would be cross-referenced in the Comment to proposed Section 31615.

obviates the need to include a statutory cross-reference whenever a defined term is used.<sup>56</sup>

### Conforming Cross-References

Title 2 of Part 4 of the Penal Code contains many provisions that cross-refer to other statutes. As material is reorganized in new Part 6 of the Penal Code, each such cross-reference must be conformed to the new numbering scheme.

Often, an existing cross-reference can simply be replaced by a cross-reference to a new provision containing the exact same material as the previously cross-referenced provision.

In some instances, however, that is not the best approach. For example, the cross-referenced provision may have been reorganized into a series of smaller provisions, some of which are not relevant to the purpose of the cross-reference. If all of the smaller provisions were cited in place of the original cross-reference, readers would unnecessarily be forced to review irrelevant material. In such cases, it is necessary to exercise some judgment to properly conform the cross-reference in a way that is consistent with its original purpose. In making such changes, the Commission carefully examined the substance of the provisions in question and determined that there would be no substantive change. The Commission's Comments would state as much, and would be official legislative history.<sup>57</sup> In addition, proposed Section 16005 would state expressly that changes to cross-references should be construed as nonsubstantive.

Conforming the cross-references required particular attention where the existing statutory text relates to events that occurred in the past, such as registration periods that have ended or procedures that no longer apply.<sup>58</sup> For example, suppose a provision refers to a "firearm declared by the court pursuant to Section 12276.5 to be an assault weapon,"<sup>59</sup> but Section 12276.5 no longer establishes a procedure for a court to declare a firearm to be an assault weapon.<sup>60</sup> In recodifying the provision that refers to Section 12276.5, it may not be appropriate to replace the cross-reference to Section 12276.5 with a cross-reference to the proposed new provision that would continue the current substance of Section 12276.5. Instead, it may be better to cross-refer to "former Section 12276.5." The Commission used care in

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56. However, there are some instances where a cross-reference to a definition has been preserved, where the definition is particularly important, potentially confusing, or likely to be overlooked. See, e.g., proposed Sections 17505, 17740, 23925, 25105, 25205, 27820, 27870, 27875, 27880, 27955, 27965 *infra*.

57. See discussion of "Commission Comments" *supra*.

58. There are a number of examples of this type of situation in the provisions relating to assault weapons and .50 BMG rifles (Sections 12275-12290). For an explanation of why the Commission preserved such statutory material instead of deleting it as obsolete, see discussion of "Provisions That Might Be Obsolete" *infra*.

59. See, e.g., Section 12276(d).

60. That procedure was discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1.

addressing such situations, as by providing background information or an explanation in the Comment to assist readers.<sup>61</sup> Here, as elsewhere, the overriding principle and intent was to preserve the substance of existing law without substantive change.<sup>62</sup>

There are also a few provisions that contain one or more cross-references that are plainly erroneous. Where the proper cross-reference is obvious, the Commission has corrected the cross-reference, rather than perpetuating the error. These corrections are listed and explained in Appendix A.<sup>63</sup> Where the proper cross-reference is not altogether obvious, the Commission has left it alone, so as not to create a risk of a substantive change. These situations could be addressed in a future reform.<sup>64</sup>

Finally, a large number of statutory provisions located outside of Title 2 cross-refer to provisions located within Title 2. The Commission has prepared a conforming revision for each such statute, which would correct each Title 2 cross-reference to reflect the new organization.<sup>65</sup>

#### **Provisions That Might Be Obsolete**

Some of the provisions in Title 2 of Part 4 of the Penal Code contain language that might be obsolete, such as rules that no longer apply,<sup>66</sup> deadlines that have long since passed,<sup>67</sup> and procedures for programs that have ended.<sup>68</sup> In drafting the

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61. See, e.g., proposed Section 30510 Comment *infra*.

62. Again, that intent would be clearly expressed in proposed Section 16005 (nonsubstantive reform) *infra*.

In determining how to conform the numerous cross-references in the deadly weapons statutes, the Commission also relied in part on proposed Section 16010 (continuation of existing law) *infra*. Where this provision appeared particularly relevant, the Commission included a citation to it in the Comment. See, e.g., proposed Section 30520 Comment *infra*.

63. The Commission also corrected an obvious drafting error in Section 12076(c). That provision governs electronic or telephonic transfer of applicant information for a firearm transaction. Section 12076(b) is a parallel provision, which governs use of a register for submitting applicant information to the Department of Justice for a firearm transaction. Much of the wording of these provisions is similar, except Section 12076(c) refers to “the electronic or telephonic transfer” and Section 12076(b) refers to “the register.”

In one place, however, Section 12076(c)(1) refers to “the register,” not “the electronic or telephonic transfer.” That reference is misplaced in a provision on electronic or telephonic transfer. The reference to “the register” should be replaced with a reference to “the electronic or telephonic transfer.” The Commission has made this correction. See proposed Section 28250 & Comment *infra*.

64. See discussion of “Minor Clean-Up Issues for Possible Future Legislative Attention” *infra* and Appendix B (Items #57-64) *infra*.

65. See “Conforming Revisions” *infra*.

66. See, e.g., Section 12076(a)(1), which says that “[b]efore January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats ...” (Emphasis added.)

67. See, e.g., Section 12021(i), which calls for development of a protocol that “shall be completed on or before January 1, 2005.”

proposed legislation, the Commission preserved almost all of that language. The Commission took this cautious approach because deleting such language might raise concerns about a possible substantive change, and because the apparently obsolete language might remain useful for reference purposes, such as deciding what crimes can be charged for conduct that occurred in the past. In a number of instances, the Commission suggests studying whether future clean-up to eliminate or otherwise revise obsolete language would be appropriate.<sup>69</sup>

#### **Other Drafting Techniques**

In reorganizing the provisions on control of deadly weapons, the Commission used a few other drafting techniques, which it regularly employs. In particular, the Commission (1) replaced gender-specific with gender-neutral language, (2) primarily used the singular form instead of the plural, because the singular form tends to be more clear,<sup>70</sup> and (3) eliminated awkward phrases such as “he or she,” “himself or herself,” “his or hers,” and “him or her” when possible. The Commission only used these drafting techniques where there appeared to be no risk of a substantive change.

### **DISPOSITION TABLE**

This recommendation concludes with a disposition table showing, for every provision of Title 2 of Part 4 of the Penal Code, the new provision that would continue it. This table will be part of the Commission’s final recommendation and will assist the public and the Legislature in reviewing the proposed law.

If legislation to implement this recommendation is enacted, the disposition table will be provided to legal publishers, who would typically make the table available as part of the print and online versions of the Penal Code. The table would then help to correlate a court decision or other document that cites an existing provision, with the new provision that would continue the existing provision. This would ease the transition from existing law to the new law.

### **MINOR CLEAN-UP ISSUES FOR POSSIBLE FUTURE LEGISLATIVE ATTENTION**

In conducting this study, the Commission identified a number of minor problems within Title 2 of Part 4 of the Penal Code, which could not be addressed

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68. See, e.g., subdivision (f) of Section 12281, which requires relinquishment or disposal of an SKS rifle in a specified manner “on or before January 1, 2000,” and subdivision (h) of the same section, which establishes a purchase program for SKS rifles relinquished pursuant to subdivision (f).

69. See discussion of “Minor Clean-Up Issues for Possible Future Legislative Attention” *infra* and Appendix B (Items #36-#40) *infra*.

70. A change from plural form to singular form (or vice versa) does not affect the meaning of a provision. See Section 7 (“the singular number includes the plural, and the plural the singular ...”).

without potentially raising concerns about a substantive change. Because this study is strictly nonsubstantive, the proposed law does not include any language to address those problems.

Instead, the Commission has prepared a list of “Minor Clean-Up Issues for Possible Future Legislative Attention.” The proposed law includes an uncodified provision that would authorize the Commission to study the problems noted in the list and recommend legislation to correct them. No other authority would be granted under that provision.

The minor clean-up issues are listed in Appendix B. As far as the Commission is aware, these issues are unlikely to involve significant controversy.

### DEFERRED OPERATIVE DATE

Because of the breadth of the organizational changes that would be made by the proposed law, the Commission recommends that it be given a deferred operative date. The proposed law includes an uncodified provision to that effect, delaying the operation of the proposed law by one year.<sup>71</sup>

This deferred operation will provide time for those who work closely with the affected statutes, including legal publishers, to adjust to the new organization before it takes effect.

### NEW LEGISLATION

New legislation relating to control of deadly weapons might be enacted after the Commission submits this recommendation in compliance with the statutory deadline of July 1, 2009, but before a bill to implement the recommendation is introduced in the Legislature. If so, the Commission will prepare a supplemental recommendation, adjusting its proposal as necessary to reflect the newly enacted legislation.

Once a bill to implement the recommendation is introduced in the Legislature, there might be conflicts between that bill and other pending legislation. If so, the Commission will recommend double-jointing amendments or other steps to eliminate the conflicts and coordinate the bills. Any such adjustments will be consistent with the nonsubstantive nature of this study.

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71. The proposed section authorizing the Commission to study the minor clean-up issues would not have a deferred operative date.

## APPENDIX A: CORRECTED CROSS-REFERENCES

In reorganizing the provisions on control of deadly weapons, the Law Revision Commission found some provisions that contain one or more incomplete or incorrect cross-references. Where the proper cross-reference is obvious, the Commission corrected the cross-reference in drafting its proposed legislation. That approach seemed more sensible than perpetuating a plainly incorrect cross-reference.

Those instances are described in detail below:

- Section 11106(b)(2) refers to “a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071.” There no longer is a “paragraph (5) of subdivision (c) of Section 12071.” It was relabeled as Section 12071(c)(4)(A).<sup>1</sup> The proposed law would correct this problem by replacing the cross-reference to “paragraph (5) of subdivision (c) of Section 12071” with a cross-reference to the provision that would continue the substance of Section 12071(c)(4)(A).<sup>2</sup>
- Section 12031(b)(7) refers to armored vehicle guards “as defined in Section 7521 of the Business and Professions Code.” The cross-reference to Business and Professions Code Section 7521 is incorrect. That section used to define “armored vehicle guard,” but now it only defines “private investigator.” The definition of “armored vehicle guard” has been relocated to Business and Professions Code Section 7582.1(d). The proposed law would correct this erroneous cross-reference.<sup>3</sup>
- Section 12031(d)(3) refers to private investigators and private patrol operators “who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of ... Division 3 of the Business and Professions Code.” Similarly, Section 12031(d)(6) refers to uniformed employees of “private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code.” These cross-references are incorrect. Private investigators are now licensed pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. Private patrol operators are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code. The proposed law would correct these erroneous cross-references.<sup>4</sup>

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1. Compare 1999 Cal. Stat. ch. 128, § 1, with 2001 Cal. Stat. ch. 944, § 5.1.

2. See proposed amendment to Section 11106, which is in the separate tentative recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes: Conforming Revisions* (Feb. 2009).

3. See proposed Section 26015 & Comment *infra*.

4. See proposed Section 26030 & Comment *infra*.

- Section 12070(b)(2) refers to “a person acting pursuant to subdivision (e) of Section 186.22a.” The cross-reference to subdivision (e) of Section 186.22a does not make sense, because that provision simply says: “Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.” The correct cross-reference is to subdivision (f) of the same section, which concerns confiscation of firearms, ammunition, and deadly weapons as a nuisance, and disposal of the items following confiscation. It was formerly labeled as subdivision (e).<sup>5</sup> The proposed law would correct this erroneous cross-reference.<sup>6</sup>
- Section 12072(f)(1)(B) says: “For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers *pursuant to this section* ...”<sup>7</sup> The italicized cross-reference is incorrect, because Section 12072 does not provide for a centralized list of firearms dealers. That is done in Section 12071(e). The proposed law would correct this erroneous cross-reference.<sup>8</sup>
- Section 12078(i)(2)(A) refers to “a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure.” The reference to Code of Civil Procedure Section 680.210 is incorrect. That provision defines “general intangibles,” not “levying officer.” The definition of “levying officer” is in Code of Civil Procedure Section 680.260 instead. The proposed law would correct this erroneous cross-reference.<sup>9</sup>
- Section 12081(b)(5) says: “The Department of Justice shall review subsequent arrests ... to determine the continuing validity of the permit as specified in subdivision (d) for all entertainment firearms permit holders.” The cross-reference to subdivision (d) is incorrect, because subdivision (d) does not relate to the continuing validity of an entertainment firearms permit. The correct cross-reference is to subdivision (f), which was originally labeled as subdivision (d) in the bill enacting Section 12081.<sup>10</sup> Apparently due to inadvertence, the cross-reference was not adjusted when the bill was amended and the subdivisions were relabeled. The proposed law would correct this erroneous cross-reference.<sup>11</sup>
- Section 12101(c)(1)(B) cross-refers to Section 12560. That provision existed when Section 12101 was added to the codes in 1988, but it has since been

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5. See 1991 Cal. Stat. ch. 260, § 1.

6. See proposed Section 26510 & Comment *infra*.

7. Emphasis added.

8. See proposed Section 27555 & Comment *infra*.

9. See proposed Section 27920 & Comment *infra*.

10. See SB 231 (Scott & Murray), as amended Aug. 9, 2004, § 4.

11. See proposed Section 29520 & Comment *infra*.

repealed.<sup>12</sup> Consequently, there is no need to continue the cross-reference. The proposed law would delete this obsolete cross-reference.<sup>13</sup>

- Section 12101(d) cross-refers to “Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code.” That cross-reference is incomplete. The correct cross-reference is to “Article 1 (commencing with Section 601) of Chapter 2 of Part 1 of *Division 2* of the Welfare and Institutions Code.” The proposed law would correct this incomplete cross-reference.<sup>14</sup>
- Section 12132(g) refers to “a curio or relic, as defined in Section 178.11 of the Code of Federal Regulations.” The reference to Section 178.11 of the Code of Federal Regulations is incorrect. There is no such provision. The cross-reference should be to Section 478.11 of Title 27 of the Code of Federal Regulations, which contains a definition of “curio or relic.” The proposed law would correct the cross-reference.<sup>15</sup>
- Section 12276.5(b)(2) cross-refers to “Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.” That cross-reference is incomplete. The correct cross-reference is to “Chapter 3.5 (commencing with Section 11340) of *Part 1* of Division 3 of Title 2 of the Government Code. The proposed law would correct this incomplete cross-reference.<sup>16</sup>
- Section 12278(c) refers to “any curio or relic, as defined in Section 178.11 of the Code of Federal Regulations.” The reference to Section 178.11 of the Code of Federal Regulations is incorrect. There is no such provision. The cross-reference should be to Section 478.11 of Title 27 of the Code of Federal Regulations, which contains a definition of “curio or relic.” The proposed law would correct the cross-reference.<sup>17</sup>
- Section 12280(u)(3) refers to the “operative date of Section 12276.1, as specified in subdivision (d) of that section.” The cross-reference to subdivision (d) is incorrect. The operative date of Section 12276.1 (January 1, 2000), was originally stated in subdivision (d),<sup>18</sup> but it is now stated in subdivision (e) instead. The proposed law would correct this mistake by referring directly to the operative date of January 1, 2000.<sup>19</sup>
- Section 12305 contains two references to a permit granted or issued pursuant to “this article.” Section 12305 is not part of an article. It is located in a chapter that is not divided into articles. The references to “this article”

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12. See 1990 Cal. Stat. ch. 9, § 14.

13. See proposed Section 29700 & Comment *infra*.

14. See proposed Section 29705 & Comment *infra*.

15. See proposed Section 32110 & Comment *infra*.

16. See proposed Section 30520 & Comment *infra*.

17. See proposed Section 30530 & Comment *infra*.

18. See 1999 Cal. Stat. ch. 129, § 7.

19. See proposed Section 30620(c) *infra*.

are plainly erroneous. Under existing law, the correct reference is to “this section,” because Section 12305 is the only section in its chapter that relates to the granting or issuance of a permit. In the proposed law, however, the substance of Section 12305 would be continued in an article.<sup>20</sup> The references to “this article” would therefore be left intact, because they would no longer be erroneous.<sup>21</sup>

- Section 12316(c) refers to “an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code.” The cross-reference to Business and Professions Code Section 7521(e) is incorrect. That section used to define “armored vehicle guard,” but now it only defines “private investigator.” The definition of “armored vehicle guard” has been relocated to Business and Professions Code Section 7582.1(d). The proposed law would correct this erroneous cross-reference.<sup>22</sup>
- Section 12403.8(a) refers to “paragraph (4) of subdivision (a) of Section 12403.7,” which does not exist. The obvious intent is to refer to subdivision (d) of Section 12403.7, which used to be paragraph (4) of subdivision (a).<sup>23</sup> The proposed law would correct that error.<sup>24</sup>
- Section 12403.8(b) refers to “paragraph (3) of subdivision (a) of Section 12403.7,” which does not exist. The obvious intent is to refer to subdivision (c) of Section 12403.7, which used to be paragraph (3) of subdivision (a).<sup>25</sup> The proposed law would correct that error.<sup>26</sup>
- Section 12403.5 refers to a “person holding a license as a private investigator or private patrol operator issued pursuant to Chapter 11 (commencing with Section 7500), Division 3 of the Business and Professions Code.” However, Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code no longer relates to private investigators and private patrol operators. Instead, it relates to repossessors. The provisions governing private investigators are now located in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. The provisions governing private patrol operators are now located in Chapter 11.5 (commencing with Section 7580) of the same division. The proposed law would correct the cross-reference.<sup>27</sup>

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20. See proposed Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2 of Part 6 *infra*.

21. See proposed Sections 18905, 18910 *infra*.

22. See proposed Section 30310 & Comment *infra*.

23. See 1995 Cal. Stat. ch. 437, § 6.

24. See proposed Section 22815(a) & Comment *infra*.

25. See 1995 Cal. Stat. ch. 437, § 6.

26. See proposed Section 22815(b) & Comment *infra*.

27. See proposed Section 22835 & Comment *infra*.

APPENDIX B:  
MINOR CLEAN-UP ISSUES FOR POSSIBLE  
FUTURE LEGISLATIVE ATTENTION

In conducting this strictly nonsubstantive study, the Commission identified a number of minor problems within Title 2 of Part 4 of the Penal Code, which could not be addressed without potentially raising concerns about a substantive change. Those issues are listed here. As far as the Commission is aware, this list consists of relatively noncontroversial clean-up issues, not issues involving substantial controversy. If any of the issues listed below appears likely to involve substantial controversy, please notify the Commission.

- (1) Consider whether to expand the following definitions to the entirety of new Part 6 of the Penal Code:

“Application to purchase”<sup>1</sup>

“Assault weapon”<sup>2</sup>

“Capacity to accept more than 10 rounds”<sup>3</sup>

“Deadly weapon”<sup>4</sup>

“Destructive device”<sup>5</sup>

“Explosive”<sup>6</sup>

“Firearm safety device”<sup>7</sup>

“Licensed premises”<sup>8</sup>

“Locked container”<sup>9</sup>

“Rifle”<sup>10</sup>

“Semiautomatic pistol”<sup>11</sup>

“Short-barreled rifle”<sup>12</sup>

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1. See Commission Staff Memorandum 2007-20, Attachment p. 1. Any Commission Staff Memorandum referred to in this appendix can be obtained from the Commission, through its website ([www.clrc.ca.gov](http://www.clrc.ca.gov)) or otherwise.

2. See Commission Staff Memorandum 2007-33, Attachment pp. 7-8.

3. See Commission Staff Memorandum 2007-33, Attachment p. 15.

4. See First Supplement to Commission Staff Memorandum 2007-20, p. 1 & Attachment p. 1.

5. See Commission Staff Memorandum 2007-33, Attachment p. 22.

6. See Commission Staff Memorandum 2007-33, Attachment p. 26.

7. See Commission Staff Memorandum 2007-33, Attachment p. 28.

8. See Commission Staff Memorandum 2008-17, Attachment p. 30.

9. See Commission Staff Memorandum 2008-17, Attachment p. 32.

10. See Commission Staff Memorandum 2008-17, Attachment pp. 42-43.

11. See Commission Staff Memorandum 2008-17, Attachment p. 47.

12. See Commission Staff Memorandum 2007-33, Attachment pp. 44-45.

“Short-barreled shotgun”<sup>13</sup>

“Shotgun”<sup>14</sup>

“Silencer”<sup>15</sup>

- (2) Consider whether it is really necessary to have multiple definitions of the term “antique firearm.”<sup>16</sup>
- (3) Consider whether a single definition of “honorably retired” could be applied to the entirety of new Part 6 of the Penal Code.<sup>17</sup>
- (4) Consider whether a single definition of “person” could be applied to the entirety of new Part 6 of the Penal Code.<sup>18</sup>
- (5) Consider whether the references to “person, parent, or guardian” now found in Penal Code Section 12403.8(c) should be replaced with “parent, guardian, or other person.”<sup>19</sup>
- (6) Consider whether a single definition of “lawful possession of the firearm” could be applied to the entirety of new Part 6 of the Penal Code.<sup>20</sup>
- (7) Consider whether to conform the definitions of “operation of law” and “A person taking title or possession of firearms by operation of law,” and whether to extend a single definition to the entirety of new Part 6 of the Penal Code.<sup>21</sup>
- (8) Consider whether the definition of “loaded” given in Penal Code Sections 12031(g) and 12035(a)(2) should be extended more broadly.<sup>22</sup>
- (9) Consider whether the definition of “magazine” given in Penal Code Section 12276.1(d)(1) should be extended more broadly.<sup>23</sup>
- (10) Consider whether the definition of “locking device” for firearm should be extended more broadly, particularly to the provision that would continue Penal Code Section 12071(b)(7).<sup>24</sup>

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13. See Commission Staff Memorandum 2007-33, Attachment p. 44.

14. See Commission Staff Memorandum 2008-17, Attachment pp. 49-50.

15. See Commission Staff Memorandum 2008-17, Attachment p. 50.

16. See Commission Staff Memorandum 2007-21, Attachment pp. 4-5.

17. See Commission Staff Memorandum 2007-33, Attachment p. 36.

18. See Commission Staff Memorandum 2008-17, Attachment pp. 37-38.

19. See Commission Staff Memorandum 2008-25, Attachment p. 24.

20. See Commission Staff Memorandum 2008-17, Attachment p. 26.

21. See Commission Staff Memorandum 2007-33, Attachment pp. 41-42; Commission Staff Memorandum 2008-17, Attachment p. 37.

22. See Commission Staff Memorandum 2008-17, Attachment p. 31.

23. See Commission Staff Memorandum 2008-17, Attachment p. 34.

24. See Commission Staff Memorandum 2008-17, Attachment p. 32; Commission Staff Memorandum 2008-23, p. 5.

- (11) Penal Code Section 12316(a) defines “bona fide evidence of majority and identity.” Penal Code Section 12071(c)(1) defines “clear evidence of his or her identity and age.” The two definitions are different. Consider whether it is necessary to use two distinct terms with differing definitions.<sup>25</sup>
- (12) Consider whether to revise the definition of “department” to say: “As used in this part, unless otherwise apparent from the context, ‘department’ means the Department of Justice.”<sup>26</sup>
- (13) Consider whether to provide separate definitions of the terms “pistol” and “revolver.”<sup>27</sup>
- (14) Consider whether the definition of “unsafe handgun” should be revised to improve clarity and readability.<sup>28</sup>
- (15) Consider whether the same definition of “furnishes” should be used in the provisions relating to (1) furnishing tear gas or a tear gas weapon to a minor, (2) furnishing a stun gun to a minor, and (3) furnishing a BB device to a minor.<sup>29</sup>
- (16) Consider whether and, if so, how, to define “.50 BMG Rifle” for purposes of Penal Code Section 12022.5.<sup>30</sup>
- (17) Consider whether to revise the definition of “agent.”<sup>31</sup>
- (18) It is unclear which definition of “imitation firearm” applies in Penal Code Section 12553(b).<sup>32</sup> Consider how to eliminate this ambiguity.
- (19) It is unclear whether the definition of “imitation firearm” in Penal Code Section 12550(c) is meant to apply to Penal Code Section 12555 to any extent.<sup>33</sup> Consider how to eliminate this ambiguity.
- (20) Consider whether to clarify which definition of “licensee” applies to Penal Code Section 12086.<sup>34</sup>
- (21) Consider whether to clarify the intended scope of the definition of “secured” now found in Penal Code Section 12071(b)(20)(G)(ii).<sup>35</sup>

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25. See Commission Staff Memorandum 2007-33, Attachment pp. 13, 18.

26. See Commission Staff Memorandum 2007-33, Attachment p. 21.

27. See Commission Minutes (April 2008), pp. 6-7.

28. See Commission Staff Memorandum 2008-17, Attachment pp. 56-57.

29. See Commission Staff Memorandum 2007-33, Attachment p. 31.

30. See Commission Staff Memorandum 2008-53, Attachment p. 8.

31. See Commission Staff Memorandum 2008-27, pp. 1-2.

32. See Commission Staff Memorandum 2008-26, Attachment p. 18.

33. See Commission Staff Memorandum 2008-42, pp. 15-19.

34. See Commission Staff Memorandum 2008-49, Attachment p. 4.

35. See Commission Staff Memorandum 2008-49, Attachment pp. 30-32.

- (22) Consider whether the definition of “ammunition” in Penal Code Section 12316(b)(2) should be extended to apply to Penal Code Section 12316(d), and perhaps elsewhere.<sup>36</sup>
- (23) Consider whether Welfare and Institutions Code Section 676(a)(24) should be revised to refer to the definition of “assault weapon” now found in Penal Code Section 12276.1, as well as the definition of “assault weapon” now found in Penal Code Section 12276.<sup>37</sup>
- (24) Consider whether Welfare and Institutions Code Section 8104 should be revised to refer to the definition of “assault weapon” now found in Penal Code Section 12276.1, as well as the definition of “assault weapon” now found in Penal Code Section 12276.<sup>38</sup>
- (25) Consider whether to rename the “certificate of eligibility” referred to in Penal Code Section 12071.1 and the “certificate of eligibility” referred to in Penal Code Section 12071(a), to prevent confusion.<sup>39</sup>
- (26) Consider whether to standardize the references to “facilities manager” and “facility’s manager” in Penal Code Section 12071.1.<sup>40</sup>
- (27) Consider whether to standardize the references to “applied orally” and “administered orally” in Penal Code Section 12804(c).<sup>41</sup>
- (28) The second sentence of Penal Code Section 12028.5(g) refers to a “family violence incident,” not a “domestic violence incident.” Consider whether to replace “family violence incident” with “domestic violence incident.”<sup>42</sup>
- (29) Article 8 of Chapter 6 of Title 2 of Part 4 (i.e., Penal Code §§ 12800-12809) is inconsistent in referring to instructors.<sup>43</sup> Consider whether and, if so, how, to address this problem.
- (30) In Title 2 of Part 4 of the Penal Code, the usage of “dealer,” “licensee,” and similar terms is potentially confusing.<sup>44</sup> Consider whether and, if so, how, to address this problem.
- (31) Consider, on a case-by-case basis, whether references to “pistol, revolver, or firearm capable of being concealed upon the person” should be replaced with the term “handgun.”<sup>45</sup>

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36. See Commission Staff Memorandum 2008-59, Attachment pp. 35-36.

37. See Commission Staff Memorandum 2009-11, Attachment p. 143.

38. See Commission Staff Memorandum 2009-11, Attachment pp. 169-70.

39. See Commission Staff Memorandum 2008-49, Attachment p. 47.

40. See Commission Staff Memorandum 2008-49, Attachment p. 49.

41. See Commission Staff Memorandum 2009-5, Attachment p. 11.

42. See Commission Staff Memorandum 2007-21, Attachment p. 17.

43. See Commission Staff Memorandum 2007-33, Attachment p. 16.

44. See Commission Staff Memorandum 2007-33, Attachment pp. 19-20.

- (32) Consider whether to revise the references to “gun show producer license” and “producer’s certificate of eligibility” now found in Penal Code Section 12071.1(e).<sup>46</sup>
- (33) Consider whether to conform the references to “magnetic strip” and “magnetic stripe” in Penal Code Section 12077(f).<sup>47</sup>
- (34) Consider whether statutory references to “Dealer Record of Sale Account” and “Dealers’ Record of Sale Special Account” should be conformed.<sup>48</sup>
- (35) Consider whether statutory references to “Bureau of Alcohol, Tobacco, and Firearms” should be replaced with “Bureau of Alcohol, Tobacco, Firearms, and Explosives.”<sup>49</sup>
- (36) The first clause of Penal Code Section 12027(a)(1)(C) states a general rule. The remainder of Penal Code Section 12027(a)(1)(C) states an exception to that general rule. Consider whether the exception is obsolete.<sup>50</sup>
- (37) The first clause of the third paragraph of Penal Code Section 12031(b)(1) states a general rule. The remainder of that paragraph states an exception to the general rule. Consider whether the exception is obsolete.<sup>51</sup>
- (38) Consider whether the statutes governing the recordkeeping process for a firearm transaction should be revised to delete, segregate, or otherwise modify material relating to recordkeeping methods that are no longer in use.<sup>52</sup>
- (39) Consider whether the statutes relating to SKS rifles should be revised to delete, segregate, or otherwise modify outdated material.<sup>53</sup>
- (40) Consider whether Penal Code Section 12101(f) is obsolete and can be deleted from the codes.<sup>54</sup>
- (41) Consider whether the language now in Penal Code Section 12035(h) is unnecessary and redundant.<sup>55</sup>

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45. See, e.g., Commission Staff Memorandum 2008-17, Attachment pp. 21-22 (proposed §§ 16650, 16660), 24-25 (proposed § 16730), 52-53 (proposed § 17260), 54-57 (proposed § 17300), 60-61 (proposed § 17510).

46. See Commission Staff Memorandum 2008-49, Attachment pp. 51-52.

47. See Commission Staff Memorandum 2008-49, Attachment p. 107.

48. See Commission Staff Memorandum 2008-59, Attachment p. 10.

49. See Commission Staff Memorandum 2009-27, pp. 4-5.

50. See Commission Staff Memorandum 2008-39, Attachment p. 19.

51. See Commission Staff Memorandum 2008-39, Attachment p. 38.

52. See Commission Staff Memorandum 2008-49, Attachment pp. 99-100.

53. See Commission Staff Memorandum 2009-4, Attachment pp. 19-20.

54. See Commission Staff Memorandum 2008-59, Attachment pp. 17-18.

55. See Commission Staff Memorandum 2008-39, Attachment p. 9.

- (42) Consider whether Penal Code Sections 12070(b)(2) and 12070(b)(8) are unnecessarily redundant to some extent.<sup>56</sup>
- (43) Consider whether Penal Code Sections 12070(b)(13) and 12070(b)(14) are unnecessarily redundant to some extent.<sup>57</sup>
- (44) Consider whether Penal Code Sections 12132(c) and (g) are unnecessarily redundant to some extent.<sup>58</sup>
- (45) Consider whether Penal Code Sections 12021.3(a)(1)(G) and 12021.3(a)(3) are unnecessarily redundant to some extent, and whether one or both of these provisions should be revised to improve clarity.<sup>59</sup>
- (46) Consider whether the language now in Penal Code Sections 12280(n), (o), and (p) contains redundancies, and whether that language could be improved to make it more readily understandable.<sup>60</sup>
- (47) Consider whether the language now in Penal Code Section 12021.3(a)(2) contains a redundancy, and whether to correct the grammatical structure of that provision.<sup>61</sup>
- (48) Consider whether Penal Code Section 12021.3(a)(2) and (i)(1) are unnecessarily redundant to some extent.<sup>62</sup>
- (49) Consider whether Penal Code Section 12021.3(b)(3) and (i)(2) are unnecessarily redundant to some extent.<sup>63</sup>
- (50) Consider whether Penal Code Section 12021.3(j)(2)(D) and (3) are unnecessarily redundant to some extent.<sup>64</sup>
- (51) Consider whether the language now found in Penal Code Section 12021.3(i)(4) should be deleted because it is redundant with the language now found in Penal Code Section 12078(j).<sup>65</sup>
- (52) Consider whether the language now found in Penal Code Section 12807(b)(2) should be revised to eliminate an accidental phrase repetition.<sup>66</sup>
- (53) Consider whether it is necessary to refer to the “successor” of 27 C.F.R. § 478.11 in Penal Code Section 12078(t)(1) & (2).<sup>67</sup>

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56. See Commission Staff Memorandum 2008-49, Attachment pp. 6-7.

57. See Commission Staff Memorandum 2008-49, Attachment p. 10.

58. See Commission Staff Memorandum 2009-15, pp. 7-8.

59. See Commission Staff Memorandum 2009-8, Attachment pp. 3-4.

60. See Commission Staff Memorandum 2009-4, Attachment p. 19.

61. See Commission Staff Memorandum 2009-8, Attachment p. 4.

62. See Commission Staff Memorandum 2009-8, Attachment pp. 4-5.

63. See Commission Staff Memorandum 2009-8, Attachment p. 6.

64. See Commission Staff Memorandum 2009-8, Attachment pp. 9-10.

65. See Commission Staff Memorandum 2009-8, Attachment pp. 10-11.

66. See Commission Staff Memorandum 2009-5, Attachment p. 15.

- (54) Consider whether it is necessary to refer to the “successor” of 27 C.F.R. § 478.100 in Penal Code Sections 12071(b)(1)(B) and 12071(e)(3)(C).<sup>68</sup>
- (55) Consider whether the exception to Penal Code Section 12801(b) that is now found in Penal Code Section 12078(k)(1) is necessary.<sup>69</sup>
- (56) Consider whether the exception to Penal Code Section 12801(b) that is now found in Penal Code Section 12078(k)(5) is necessary.<sup>70</sup>
- (57) Consider whether the cross-reference to Penal Code Section 12025 in Penal Code Section 12031(j)(2) is incorrect and should be fixed.<sup>71</sup>
- (58) Consider whether the cross-reference to Penal Code Section 12028(c) in Penal Code Section 12028.5(e) is overly narrow and should be expanded.<sup>72</sup>
- (59) Consider whether the cross-reference at the beginning of Penal Code Section 12071(e)(1) should be expanded to encompass Penal Code Section 12071(e)(2).<sup>73</sup>
- (60) Consider how to correct the erroneous cross-reference to Family Code Section 6385(a) in Penal Code Section 12076(e)(5).<sup>74</sup>
- (61) Consider how to correct the erroneous cross-references to Penal Code Section 12806 that are now found in Penal Code Sections 12071(b)(11) and (12).<sup>75</sup>
- (62) Penal Code Section 12021(c)(1) says: “*Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of ....*”<sup>76</sup> Consider whether the italicized clause should refer to paragraph (3) in addition to paragraph (2).<sup>77</sup>
- (63) Consider whether the reference in Penal Code Section 12071(h) to “Paragraph (14) *or* (15) of subdivision (b)” should be replaced with a reference to “Paragraphs (14) *and* (15) of subdivision (b).”<sup>78</sup>

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67. See Commission Staff Memorandum 2008-49, Attachment pp. 38, 77, 84-85.

68. See Commission Staff Memorandum 2008-49, Attachment pp. 16-17, 20.

69. See Commission Staff Memorandum 2009-5, Attachment p. 22.

70. See Commission Staff Memorandum 2009-5, Attachment pp. 23-24.

71. See Commission Staff Memorandum 2008-39, Attachment pp. 44-45.

72. See Commission Staff Memorandum 2009-27, List of Corrections & Staff Suggestions for Improvement, pp. 13-14 (entry for proposed Section 18275).

73. See Commission Staff Memorandum 2008-49, Attachment p. 17.

74. See Commission Staff Memorandum 2008-49, Attachment pp. 113-14; Commission Minutes (Oct. 2008), p. 8; 2002 Cal. Stat. ch. 265 (SB 1627 (Kuehl)).

75. See Commission Staff Memorandum 2009-10, Attachment pp. 174-75.

76. Emphasis added.

77. See Commission Staff Memorandum 2008-59, Attachment pp. 21-22.

78. See Commission Staff Memorandum 2008-49, Attachment p. 32.

- (64) Consider whether the references to “this paragraph” and “this section” in Penal Code Section 12072(f)(2)(C) are correct, or should be made parallel.<sup>79</sup>
- (65) Consider whether to revise the language now found in the first paragraph of Penal Code Section 12032, to improve clarity.<sup>80</sup>
- (66) Consider whether to revise the language now found in Penal Code Section 12079(a), to improve clarity.
- (67) Consider whether to revise the language now found in Penal Code Section 12130(b), to improve clarity.<sup>81</sup>
- (68) Consider whether to revise the language now found in Penal Code Section 12301(a)(3), to improve clarity.<sup>82</sup>
- (69) Consider whether to replace “those firearms” with “handguns” in what is now Penal Code Section 12800, to improve clarity.<sup>83</sup>
- (70) Consider whether to revise the language now found in Penal Code Section 12804(e), to improve clarity.<sup>84</sup>
- (71) Consider whether the language now found in Penal Code Section 12001.1(b) could be simplified without any change in meaning.<sup>85</sup>
- (72) Consider whether the language now found in Penal Code Section 12088.5 should be reworded to improve readability without any change in meaning.<sup>86</sup>
- (73) Consider whether the language now found in Penal Code Section 12071.4(i)-(j) should be revised to improve clarity and readability.<sup>87</sup>
- (74) Consider whether Penal Code Section 12101(a)(2)(A) should refer to “the use of a firearm” instead of “this use of a firearm.” Also consider whether to simplify Penal Code Section 12101(a)(2)(A)-(D) without changing the substance.<sup>88</sup>
- (75) Penal Code Section 12027(c) refers to “those weapons.” Consider whether to replace that phrase with a more precise phrase.<sup>89</sup>

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79. See Commission Staff Memorandum 2008-49, Attachment pp. 69-70.

80. See Commission Staff Memorandum 2009-8, Attachment p. 12.

81. See Commission Staff Memorandum 2009-5, Attachment pp. 33-34.

82. See Commission Staff Memorandum 2007-33, Attachment pp. 22-23.

83. See Commission Staff Memorandum 2009-5, Attachment p. 7.

84. See Commission Staff Memorandum 2009-5, Attachment p. 11.

85. See Commission Staff Memorandum 2008-25, Attachment p. 8.

86. See Commission Staff Memorandum 2008-26, Attachment pp. 12-13.

87. See Commission Staff Memorandum 2008-49, Attachment p. 55.

88. See Commission Staff Memorandum 2008-59, Attachment pp. 14-15.

89. See Commission Staff Memorandum 2008-39, Attachment p. 29.

- (76) Consider whether the language now found in the following provisions relating to target shooting should be revised to improve clarity: Penal Code Sections 12070(b)(9), 12073(b)(7), and 12078(h) & (k)(6).<sup>90</sup>
- (77) Consider whether the language now in the first sentence of Penal Code Section 12071(b)(14) should be revised to better reflect its intent.<sup>91</sup>
- (78) Consider whether the language now found in Penal Code Section 12076(d)(2), relating to use of the NICS system, should be revised so that the provision better reflects its intent.<sup>92</sup>
- (79) Penal Code Section 12020.3 criminalizes possession of a bright orange or bright green gun. Consider whether the purpose of this provision would be better served by expanding the scope of the provision.<sup>93</sup>
- (80) Penal Code Section 12088.1 addresses three distinct subjects: (a) the firearm safety device requirement and exemptions from that requirement, (b) the warning requirement for a long-gun safe that does not comply with the standards for gun safes, and (c) the warning requirement of Penal Code Section 12088.3. Consider the possibility of dividing this material into several code sections.<sup>94</sup>
- (81) Consider whether to reorganize the provisions relating to identification certificates for retired peace officers and endorsements on those certificates authorizing officers to carry a concealed firearm, carry a loaded firearm, or carry a concealed and loaded firearm.<sup>95</sup>
- (82) Consider which exemptions listed in Penal Code Section 12020 apply to which weapons and equipment, and then consider whether to place each of those exemptions in proximity to the provisions governing the weapons or equipment to which it applies.<sup>96</sup>
- (83) Consider whether to relocate the substance of Penal Code Section 12316(c) to the chapter on “Schools” (Penal Code §§ 626-626.11).<sup>97</sup>
- (84) Consider whether any of the provisions in new Part 6 of the Penal Code should be redrafted to use the singular form instead of the plural form.<sup>98</sup>

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90. See Commission Staff Memorandum 2009-27, pp. 5-8; First Supplement to Commission Staff Memorandum 2009-27, pp. 1-3 & Exhibit p. 1.

91. See Commission Staff Memorandum 2008-49, Attachment p. 30.

92. See Commission Staff Memorandum 2008-49, Attachment p. 112.

93. See Commission Staff Memorandum 2008-26, Attachment p. 14.

94. See Commission Staff Memorandum 2008-26, Attachment pp. 5-8.

95. See Commission Staff Memorandum 2008-39, Attachment pp. 17, 35-36, 57.

96. See Commission Staff Memorandum 2007-33, Attachment p. 48.

97. See Commission Staff Memorandum 2008-59, pp. 36-37.

98. See Commission Staff Memorandum 2008-39, pp. 1-2.

- (85) Read literally, Penal Code Section 12028.5(c) only requires delivery of a firearm, not other deadly weapons. Consider whether this is due to an oversight that should be corrected.<sup>99</sup>
- (86) In some places, Penal Code Section 12028.5 refers to “the owner or person who possessed the firearm” or to “the owner or person who was in lawful possession.” In other places, the provision refers only to “the owner” or to “the lawful owner.” These references should be reviewed to determine whether they are appropriate as is, or should be revised to achieve greater consistency.<sup>100</sup>
- (87) Consider why the first sentence of Penal Code Section 12078(t) refers to a “loan,” while the second sentence does not.<sup>101</sup>
- (88) Consider why the first sentence of Penal Code Section 12071.4(h) refers to the grandparent of a person under age 18, but the second sentence does not.<sup>102</sup>
- (89) Consider whether Penal Code Section 12078(a)(8) should refer to an “authorized law enforcement representative” instead of “an authorized law enforcement agency.”<sup>103</sup>
- (90) Consider whether the last sentence of Penal Code Section 12078(i)(2)(A) should refer to “report forms” instead of “reports.”<sup>104</sup>
- (91) Penal Code Section 12071(b)(3)(D) refers to a person “prohibited by state or federal law from processing, owning, purchasing, or receiving a firearm.” Consider whether the phrase “processing, owning, purchasing, or receiving” should be replaced with “possessing, receiving, owning, or purchasing.”<sup>105</sup>
- (92) Consider whether Penal Code Sections 12101(a)(2), (b)(2), and (c)(1) should be revised to replace “one of the following” with “any of the following.”<sup>106</sup>
- (93) Consider whether the introduction to Penal Code Section 12276.1(c) should be revised to replace “either of the following” with “any of the following.”<sup>107</sup>
- (94) Consider whether to delete “in Sacramento” from Penal Code Section 12076(b)(3) & (c)(2), to fix a chaptering out problem.<sup>108</sup>

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99. See Commission Staff Memorandum 2007-21, Attachment p. 14.

100. See Commission Staff Memorandum 2007-21, Attachment p. 13.

101. See Commission Staff Memorandum 2008-49, Attachment p. 38, 77.

102. See Commission Staff Memorandum 2008-49, Attachment p. 54.

103. See Commission Staff Memorandum 2008-49, Attachment p. 87.

104. See Commission Staff Memorandum 2008-49, Attachment p. 92.

105. See Commission Staff Memorandum 2008-58, Attachment p. 20.

106. See Commission Staff Memorandum 2008-59, Attachment pp. 15, 16.

107. See Commission Staff Memorandum 2009-4, Attachment p. 7.

- (94) Consider how to conform Education Code Section 49330 to reflect the Commission's proposed nonsubstantive reorganization of the deadly weapon statutes.<sup>109</sup>
  - (95) Consider how to designate the unlabeled paragraph now found in Penal Code Section 12370(b), and how to conform the references to "this paragraph."<sup>110</sup>
  - (96) Some of the provisions in Title 2 of Part 4 of the Penal Code apply in the probate context, but do not apply to other types of at-death transfers.<sup>111</sup> Consider whether to extend some or all of these provisions to all types of at-death transfers.<sup>112</sup>
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108. See Commission Staff Memorandum 2008-61, p. 2.

109. See Commission Staff Memorandum 2009-28, pp. 2-4.

110. See Commission Staff Memorandum 2009-5, Attachment p. 5.

111. See, e.g., Penal Code §§ 12020(b)(7)-(8), 12070(b)(3), 12280(i), 12281(f)(2), 12285(b)(1) & (3).

112. See Commission Staff Memorandum 2009-4, Attachment pp. 16-17, 28, 30; Commission Staff Memorandum 2008-49, Attachment p. 7.



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## PROPOSED LEGISLATION

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

### **Penal Code § 626.91 (added). Ammunition on school grounds**

SECTION 1. Section 626.91 is added to the Penal Code, to read:

626.91. Possession of ammunition on school grounds is governed by Section 30310.

**Comment.** Section 626.91 is new. It is intended to help persons locate key rules relating to possession of ammunition on school grounds. This provision is for informational purposes only and has no substantive effect. It shall not be read to imply that Section 30310 is the only provision governing possession of ammunition on school grounds.

### **Penal Code § 653k (repealed). Switchblade knife**

SEC. 2. Section 653k of the Penal Code is repealed.

**Comment.** The first paragraph of former Section 653k is continued without substantive change in Section 21510 (restrictions relating to switchblade knife).

The second paragraph of former Section 653k is continued without substantive change in Section 17235 (“switchblade knife”).

The third paragraph of former Section 653k is continued without substantive change in Section 16965 (“passenger’s or driver’s area”).

### **Penal Code § 830.95 (added). Picketing in uniform of peace officer**

SEC. 3. Section 830.95 is added to the Penal Code, to read:

830.95. (a) Any person who wears the uniform of a peace officer while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor, whether or not the person is a peace officer.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

**Comment.** Subdivision (a) of Section 830.95 continues former Section 12590(a)(4) without substantive change.

With respect to picketing in the uniform of a peace officer, subdivision (b) continues former Section 12590(b) without substantive change. See also Section 17510(b), which continues former Section 12590(b) with respect to certain other acts.

### **Penal Code §§ 12000-12809 (repealed). Control of Deadly Weapons**

SEC. 4. Title 2 (commencing with Section 12000) of Part 4 of the Penal Code is repealed.

**Comment.** The provisions of the repealed title are continued without substantive change, as follows:

(1) The repealed provisions that relate to sentence enhancements are continued without substantive change in new Title 2 (commencing with Section 12001), entitled “Sentence Enhancements.”

(2) The portions of former Section 12590 relating to picketing in the uniform of a peace officer are continued in new Section 830.95.

(3) All other repealed provisions are continued without substantive change in new Part 6 (commencing with Section 16000), entitled “Control of Deadly Weapons.”

**Penal Code §§ 12001-12022.95 (added). Sentence enhancements**

SEC. 5. Title 2 (commencing with Section 12001) is added to Part 4 of the Penal Code, to read:

TITLE 2. SENTENCE ENHANCEMENTS

**§ 12001. “Firearm”**

12001. As used in this title, “firearm” has the meaning provided in subdivision (a) of Section 16520.

**Comment.** Section 12001 continues the definition of “firearm” provided in former Section 12001(b), without substantive change.

**§ 12003. Severability of provisions**

12003. If any section, subsection, sentence, clause or phrase of this title or any other provision listed in Section 16580 is for any reason held to be unconstitutional, that decision shall not affect the validity of the remaining portions of this title or any other provision listed in Section 16580. The Legislature hereby declares that it would have passed this title and any other provision listed in Section 16580, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**Comment.** Section 12003 continues former Section 12003 without substantive change. See also Section 23505, to the same effect as this provision.

**§ 12021.5. Weapon enhancement for street gang crime**

12021.5. (a) Every person who carries a loaded or unloaded firearm on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for one, two, or three years in the court’s discretion. The court shall impose the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence.

(b) Every person who carries a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for two, three, or four years in the court’s discretion. The court shall impose

the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) “Rifle” shall have the same meaning as specified in Section 17090.

(6) “Shotgun” shall have the same meaning as specified in Section 17190.

**Comment.** Section 12021.5 continues former Section 12021.5 without change, except that subdivisions (c)(5)-(6) are revised to correct cross-references to the definitions of “rifle” and “shotgun.”

See also Section 12001 (“firearm” defined).

#### **§ 12022. Armed with firearm or personal use of deadly or dangerous weapon**

12022. (a)(1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless the arming is an element of that offense. This additional term shall apply to any person who is a principal in the commission of a felony or

attempted felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 30510 or Section 30515, or a machinegun, as defined in Section 16880, or a .50 BMG rifle, as defined in Section 30530, the additional and consecutive term described in this subdivision shall be three years whether or not the arming is an element of the offense of which the person was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with an assault weapon or machinegun, or a .50 BMG rifle, whether or not the person is personally armed with an assault weapon or machinegun, or a .50 BMG rifle.

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

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

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission of a felony or attempted felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

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

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission of an offense or attempted offense specified in subdivision (c), shall be punished by an additional and consecutive term of imprisonment in the state prison for one, two, or three years.

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

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

**Comment.** Section 12022 continues former Section 12022 without change, except that subdivision (a)(2) is revised to correct cross-references to the definitions of “.50 BMG Rifle,” “assault weapon,” and “machinegun,” and subdivision (b)(3) is revised to correct a cross-reference to former Section 12028.

See also Section 12001 (“firearm” defined).

**§ 12022.1. Secondary offense**

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

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

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

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

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

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

(e) If the person is convicted of a felony for the primary offense, is sentenced to state prison for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be consecutive to the primary sentence.

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

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

**Comment.** Section 12022.1 continues former Section 12022.1 without change.

**§ 12022.2. Possession of armor penetrating ammunition or wearing of body vest**

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

(b) Any person who wears a body vest in the commission or attempted commission of a violent offense, as defined in Section 29905, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or five years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

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

**Comment.** Section 12022.2 continues former Section 12022.2 without change, except that subdivision (b) is revised to correct a cross-reference to the definition of “violent offense.”

See also Section 12001 (“firearm” defined).

**§ 12022.3. Weapon enhancement for sexual offense**

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

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

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

**Comment.** Section 12022.3 continues former Section 12022.3 without change.

See also Section 12001 (“firearm” defined).

**§ 12022.4. Furnishing firearm**

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

**Comment.** Section 12022.4 continues former Section 12022.4 without change.  
See also Section 12001 (“firearm” defined).

**§ 12022.5. Personal use of firearm**

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

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 30510 or Section 30515, or a machinegun, as defined in Section 16880, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

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

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

(e) When a person is found to have personally used a firearm, an assault weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

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

**Comment.** Section 12022.5 continues former Section 12022.5 without change, except that subdivision (b) is revised to correct cross-references to the definitions of “assault weapon” and

“machinegun” and subdivision (e) is amended to correct a cross reference to former Section 12028.

See also Section 12001 (“firearm” defined).

**§ 12022.53. Personal use or discharge of firearm**

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

- (1) Section 187 (murder).
- (2) Section 203 or 205 (mayhem).
- (3) Section 207, 209, or 209.5 (kidnapping).
- (4) Section 211 (robbery).
- (5) Section 215 (carjacking).
- (6) Section 220 (assault with intent to commit a specified felony).
- (7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).
- (8) Section 261 or 262 (rape).
- (9) Section 264.1 (rape or sexual penetration in concert).
- (10) Section 286 (sodomy).
- (11) Section 288 or 288.5 (lewd act on a child).
- (12) Section 288a (oral copulation).
- (13) Section 289 (sexual penetration).
- (14) Section 4500 (assault by a life prisoner).
- (15) Section 4501 (assault by a prisoner).
- (16) Section 4503 (holding a hostage by a prisoner).
- (17) Any felony punishable by death or imprisonment in the state prison for life.
- (18) Any attempt to commit a crime listed in this subdivision other than an assault.

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

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

(d) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 26100, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life.

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

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

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

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

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

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

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

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

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

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any

person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

**Comment.** Section 12022.53 continues former Section 12022.53 without change, except that subdivision (d) is revised to correct a cross-reference to former Section 12034(c)-(d) and subdivision (k) is revised to correct a cross-reference to former Section 12028.

See also Section 12001 (“firearm” defined).

**§ 12022.55. Discharge of firearm from motor vehicle causing great bodily injury or death**

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

**Comment.** Section 12022.55 continues former Section 12022.55 without change.

See also Section 12001 (“firearm” defined).

**§ 12022.6. Taking, damaging, or destroying property**

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

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

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

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

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

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

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

(d) This section applies to, but is not limited to, property taken, damaged, or destroyed in violation of Section 502 or subdivision (b) of Section 502.7. This section shall also apply to applicable prosecutions for a violation of Section 350, 653h, 653s, or 653w.

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

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

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

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

**Comment.** Section 12022.6 continues former Section 12022.6 without change.

#### **§ 12022.7. Great bodily injury**

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

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

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

(d) Any person who personally inflicts great bodily injury on a child under the age of five years in the commission of a felony or attempted felony shall be

punished by an additional and consecutive term of imprisonment in the state prison for four, five, or six years.

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

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

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

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

**Comment.** Section 12022.7 continues former Section 12022.7 without change.

#### **§ 12022.75. Administration of controlled substance**

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

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

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

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

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

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

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

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

**Comment.** Section 12022.75 continues former Section 12022.75 without change.

#### **§ 12022.8. Infliction of great bodily injury in committing sexual offense**

12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation of Section 220 involving a specified sexual offense, or a violation or attempted violation of paragraph (2), (3), or (6) of

subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a shall receive a five-year enhancement for each violation in addition to the sentence provided for the felony conviction.

**Comment.** Section 12022.8 continues former Section 12022.8 without change.

**§ 12022.85. Sexual offense by person with knowledge that the person has AIDS**

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

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

(1) Rape in violation of Section 261.

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

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

(4) Sodomy in violation of Section 286.

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

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

**Comment.** Section 12022.85 continues former Section 12022.85 without change.

**§ 12022.9. Termination of pregnancy of victim known to be pregnant**

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

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

**Comment.** Section 12022.9 continues former Section 12022.9 without change.

**§ 12022.95. Injury to child**

12022.95. Any person convicted of a violation of Section 273a, who under circumstances or conditions likely to produce great bodily harm or death, willfully

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

**Comment.** Section 12022.95 continues former Section 12022.95 without change.

**Penal Code §§ 16000-34370 (added). Control of deadly weapons**

SEC. 6. Part 6 (commencing with Section 16000) is added to the Penal Code, to read:

**PART 6. CONTROL OF DEADLY WEAPONS**

**TITLE 1. PRELIMINARY PROVISIONS**

**DIVISION 1. GENERAL PROVISIONS**

**§ 16000. Deadly Weapons Recodification Act of 2012**

16000. This act recodifies the provisions of former Title 2 (commencing with Section 12000) of Part 4, which was entitled “Control of Deadly Weapons.” The act shall be known and may be cited as the “Deadly Weapons Recodification Act of 2012.”

**Comment.** Section 16000 provides a convenient means of referring to the recodification of former Sections 12000-12809. For background, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, \_\_ Cal. L. Revision Comm’n Reports \_\_ (2009).

**§ 16005. Nonsubstantive reform**

16005. Nothing in the Deadly Weapons Recodification Act of 2012 is intended to substantively change the law relating to deadly weapons. The act is intended to be entirely nonsubstantive in effect. Every provision of this part, of Title 2 (commencing with Section 12001) of Part 4, and every other provision of this act, including, without limitation, every cross-reference in every provision of the act, shall be interpreted consistent with the nonsubstantive intent of the act.

**Comment.** Section 16005 makes clear that the Deadly Weapons Recodification Act of 2012 has no substantive impact. The act is intended solely to make the provisions governing control of deadly weapons more user-friendly. For background, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, \_\_ Cal. L. Revision Comm’n Reports \_\_ (2009).

**§ 16010. Continuation of existing law**

16010. (a) A provision of this part or of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.

(b) A reference in a statute to a previously existing provision that is restated and continued in this part or in Title 2 (commencing with Section 12001) of Part 4, or in any other provision of the Deadly Weapons Recodification Act of 2012, shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.

(c) A reference in a statute to a provision of this part or of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, which is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

**Comment.** Subdivision (a) of Section 16010 is similar to Section 5, which is a standard provision found in many codes. See, e.g., Bus. & Prof. Code § 2; Corp. Code § 2; Fam. Code § 2; Prob. Code § 2(a); Veh. Code § 2.

Subdivision (b) is drawn from Government Code Section 9604.

Subdivision (c) is drawn from Family Code Section 2. For a specific illustration of the general principle stated in this subdivision, see Section 16015 (determining existence of prior conviction).

**§ 16015. Determining existence of prior conviction**

16015. If a previously existing provision is restated and continued in this part, or in Title 2 (commencing with Section 12001) of Part 4, or in any other provision of the Deadly Weapons Recodification Act of 2012, a conviction under that previously existing provision shall, unless a contrary intent appears, be treated as a prior conviction under the restatement and continuation of that provision.

**Comment.** Section 16015 makes clear that in determining the existence of a prior conviction that affects the severity of punishment for an offense, a conviction under a former provision that has been restated and continued in the Deadly Weapons Recodification Act of 2012 counts as a prior conviction under the corresponding new provision.

For example, Section 20170 prohibits open display of an imitation firearm in a public place. A first violation of that provision is punishable by a \$100 fine, and a second violation is punishable by a \$300 fine. See Section 20180. In determining whether to impose a \$100 fine or a \$300 fine, a violation of the predecessor of Section 20170 (former Section 12256(a)) counts as a prior violation of Section 20170.

**§ 16020. Judicial decision interpreting former law**

16020. (a) A judicial decision interpreting a previously existing provision is relevant in interpreting any provision of this part, of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, which restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision affected by the act.

**Comment.** Subdivision (a) of Section 16020 makes clear that case law construing a predecessor provision is relevant in construing its successor in the Deadly Weapons Recodification Act of 2012.

Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the Legislature has not taken any position on any case interpreting any of those provisions.

### § 16025. Constitutionality

16025. (a) A judicial decision determining the constitutionality of a previously existing provision is relevant in determining the constitutionality of any provision of this part, of Title 2 (commencing with Section 12001) of Part 4, or any other provision of the Deadly Weapons Recodification Act of 2012, which restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the constitutionality of any provision affected by the act, or the correctness of any judicial decision determining the constitutionality of any provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any determination of the constitutionality of any provision affected by the act.

**Comment.** Subdivision (a) of Section 16025 makes clear that case law determining the constitutionality of a predecessor provision is relevant in determining the constitutionality of its successor in the Deadly Weapons Recodification Act of 2012.

Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the Legislature has not taken any position on the constitutionality of any of those provisions.

## DIVISION 2. DEFINITIONS

### § 16100. “.50 BMG cartridge”

16100. Use of the term “.50 BMG cartridge” is governed by Section 30525.

**Comment.** Section 16100 is new. It is intended to help persons locate the definition of “.50 BMG cartridge.”

### § 16110. “.50 BMG rifle”

16110. Use of the term “.50 BMG rifle” is governed by Section 30530.

**Comment.** Section 16110 is new. It is intended to help persons locate the definition of “.50 BMG rifle.”

### § 16120. “Abuse”

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

- (a) Intentionally or recklessly to cause or attempt to cause bodily injury.
- (b) Sexual assault.
- (c) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
- (d) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

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

**§ 16130. “Agent”**

16130. As used in Section 26915, “agent” means an employee of the licensee.

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

**§ 16140. “Air gauge knife”**

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

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

**§ 16150. “Ammunition”**

16150. (a) As used in Section 30300, “ammunition” means handgun ammunition as defined in Section 16650.

(b) As used in subdivision (a) of Section 30305, “ammunition” includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

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

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

**§ 16160. “Antique cannon”**

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

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

**§ 16170. “Antique firearm”**

16170. (a) As used in Sections 30515 and 30530, “antique firearm” means any firearm manufactured before January 1, 1899.

(b) As used in Section 16520, subdivision (a) of Section 23630, paragraph (1) of subdivision (b) of Section 27505, and subdivision (a) of Section 31615, “antique

firearm” has the same meaning as in Section 921(a)(16) of Title 18 of the United States Code.

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

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

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

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

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

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

See Section 16520 (“firearm”).

#### § 16180. “Antique rifle”

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

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

See Section 16520 (“firearm”).

#### § 16190. “Application to purchase”

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

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

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

**Comment.** Section 16190 continues former Section 12001(i) without substantive change.

See Section 16520 (“firearm”).

#### § 16200. “Assault weapon”

16200. Use of the term “assault weapon” is governed by Sections 30510 and 30515.

**Comment.** Section 16200 is new. It is intended to help persons locate the provisions defining “assault weapon.”

**§ 16220. “Ballistic knife”**

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

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

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

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

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

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

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

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

**§ 16250. “BB device”**

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

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

**§ 16260. “Belt buckle knife”**

16260. As used in this part, “belt buckle knife” is a knife that is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

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

**§ 16270. “Blowgun”**

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

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

**§ 16280. “Blowgun ammunition”**

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

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

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

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

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

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

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

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

**§ 16310. “Boobytrap”**

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

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

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

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

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

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

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

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

**Comment.** Section 16320 continues former Section 12020(c)(9) without substantive change. See Section 16520 (“firearm”).

**§ 16330. “Cane gun”**

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

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

See Section 16520 (“firearm”).

**§ 16340. “Cane sword”**

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

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

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

16350. As used in Section 30515, “capacity to accept more than 10 rounds” means capable of accommodating more than 10 rounds. The term does not apply to a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

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

**§ 16360. “CCW”**

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

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

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

16370. As used in Sections 31610 to 31700, inclusive, “certified instructor” or “DOJ Certified Instructor” means a person designated as a handgun safety instructor by the Department of Justice pursuant to subdivision (a) of Section 31635.

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

**§ 16380. “Chamber load indicator”**

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

**Comment.** Section 16380 continues former Section 12126(c) without substantive change. See also former Section 12130(d)(1)-(2), which used the same definition of “chamber load indicator.”

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

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

(a) A valid California driver’s license.

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

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

**§ 16410. “Consultant-evaluator”**

16410. As used in this part, “consultant-evaluator” means a consultant or evaluator who, in the course of that person’s profession is loaned firearms from a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, for research or evaluation, and has a current certificate of eligibility issued pursuant to Section 26710.

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

**§ 16420. “Dagger”**

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

**Comment.** Section 16420 is new. It is intended to help persons locate the definition of “dagger,” which is the same as the definition of “dirk.”

**§ 16430. “Deadly weapon”**

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

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

**§ 16440. “Dealer”**

16440. Use of the term “dealer” is governed by Section 26700.

**Comment.** Section 16440 is new. It is intended to help persons locate the definition of “dealer.”

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

**§ 16450. “Department”**

16450. As used in Sections 31610 to 31700, inclusive, and in Chapter 2 (commencing with Section 29030) of Division 7 of Title 4, “department” means the Department of Justice.

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

**§ 16460. “Destructive device”**

16460. (a) As used in Sections 16510, 16520, and 16780, and in Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, “destructive device” includes any of the following weapons:

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

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

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

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

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

(6) Any sealed device containing dry ice (CO<sub>2</sub>) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

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

**Comment.** Subdivision (a) of Section 16460 continues former Section 12301(a)(1)-(2) & (4)-(6) without substantive change. Subdivision (a) also continues the first sentence of former Section 12301(a)(3) without substantive change. See also former Section 12601(b)(6) and the fourth sentence of former Section 12030(d), which used the same definition of “destructive device.”

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

See Sections 16160 (“antique cannon”), 16180 (“antique rifle”), 16490 (“explosive”).

#### § 16470. “Dirk” or “dagger”

16470. As used in this part, “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 21510, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

**Comment.** Section 16470 continues former Section 12020(c)(24) without substantive change. See also former Section 12028(a), which referred to former Section 12020.

#### § 16480. “DOJ Certified Instructor”

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

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

**§ 16490. “Domestic violence”**

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

- (a) A spouse or former spouse.
- (b) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.
- (c) A person with whom the respondent is having or has had a dating or engagement relationship.
- (d) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).
- (e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.
- (f) Any other person related by consanguinity or affinity within the second degree.

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

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

16500. Use of the phrase “drop safety requirement for handguns” is governed by Section 31900.

**Comment.** Section 16500 is new. It is intended to help persons locate the definition of “drop safety requirement for handguns.”

**§ 16510. “Explosive”**

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

- (a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.
- (b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as classified by the United States Department of Transportation.
- (c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5 explosives by the United States Department of Transportation.

(d) Any material designated as an explosive by the State Fire Marshal. The designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation pursuant to provisions of Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations that define explosives.

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

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

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

See Section 16460 (“destructive device”).

**§ 16520. “Firearm”**

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

(b) As used in the following provisions, “firearm” includes the frame or receiver of the weapon:

- (1) Section 16550.
- (2) Section 16730.
- (3) Section 16960.
- (4) Section 16990.
- (5) Section 17070.
- (6) Section 17310.
- (7) Sections 26500 to 26585, inclusive.
- (8) Sections 26600 to 27140, inclusive.
- (9) Sections 27400 to 28000, inclusive.
- (10) Section 28100.
- (11) Sections 28400 to 28415, inclusive.
- (12) Sections 29010 to 29150, inclusive.
- (13) Sections 29610 to 29750, inclusive.
- (14) Sections 29800 to 29905, inclusive.
- (15) Sections 30150 to 30165, inclusive.

(16) Section 31615.

(17) Sections 31705 to 31830, inclusive.

(18) Sections 34355 to 34370, inclusive.

(19) Sections 8100, 8101, and 8103 of the Welfare and Institutions Code.

(c) As used in the following provisions, “firearm” also includes any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes:

(1) Section 16750.

(2) Subdivision (b) of Section 16840.

(3) Section 25400.

(4) Sections 25850 to 26025, inclusive.

(5) Subdivisions (a), (b), and (c) of Section 26030.

(6) Sections 26035 to 26055, inclusive.

(d) As used in the following provisions, “firearm” does not include an unloaded antique firearm:

(1) Subdivisions (a) and (c) of Section 16730.

(2) Section 16550.

(3) Section 16960.

(4) Section 17310.

(5) Sections 26500 to 26585, inclusive.

(6) Sections 26700 to 26915, inclusive.

(7) Section 27510.

(8) Section 27530.

(9) Section 27540.

(10) Section 27545.

(11) Sections 27555 to 27570, inclusive.

(12) Sections 29010 to 29150, inclusive.

(e) As used in Sections 34005 and 34010, “firearm” does not include a destructive device.

(f) As used in Sections 17280 and 24680, “firearm” has the same meaning as in Section 922 of Title 18 of the United States Code.

(g) As used in Sections 29010 to 29150, inclusive, “firearm” includes the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.

**Comment.** Subdivision (a) of Section 16520 continues former Sections 12001(b) and 12550(b) without substantive change, for purposes of “Part 6. Control of Deadly Weapons.” See also Section 12001, which continues former Section 12001(b) without substantive change, for purposes of “Title 2. Sentencing Enhancements” of “Part 4. Prevention of Crimes and Apprehension of Criminals.”

Subdivision (b) continues former Section 12001(c) and former Section 12085(e)(1) without substantive change.

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

Subdivision (d) continues former Section 12001(e) and former Section 12085(e)(3) without substantive change. See Section 16170 (“antique firearm”).

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

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

Subdivision (g) continues former Section 12085(e)(2) without substantive change.

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

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

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

**Comment.** Subdivision (a) of Section 16530 continues former Section 12001(a)(1) without substantive change. See also former Sections 12126(e), 12323(a), and 12601(b)(1), and the introductory clause of former Section 12126, all of which referred to the definition in Section 12001.

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

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

**§ 16540. “Firearm safety device”**

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

**Comment.** Section 16540 continues former Section 12087.6(a) without substantive change. See Sections 16520 (“firearm”), 16610 (“gun safe”).

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

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

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

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

16560. Use of the phrase “firing requirement for handguns” is governed by Section 31905.

**Comment.** Section 16560 is new. It is intended to help persons locate the definition of “firing requirement for handguns.”

**§ 16570. “Flechette dart”**

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

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

**§ 16575. “Former Article 4 of Chapter 1 provisions”**

16575. (a) Except as stated in subdivision (c), the following provisions were formerly included in Article 4 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4, which was entitled “Licenses to Sell Firearms”:

- (1) Section 16130.
- (2) Subdivision (b) of Section 16170, to the extent that it continues former Sections 12078 and 12085.
- (3) Section 16230.
- (4) Section 16400.
- (5) Section 16450, to the extent that it continues subdivision (a) of former Section 12086.
- (6) Subdivisions (b) and (d) of Section 16520, to the extent that they continue subdivision (e) of former Section 12085.
- (7) Subdivision (g) of Section 16520.
- (8) Section 16550.
- (9) Section 16620.
- (10) Section 16720.
- (11) Section 16730.
- (12) Section 16740, to the extent that it continues subdivision (b) of former Section 12079.
- (13) Section 16800.
- (14) Section 16810.
- (15) Section 16960.
- (16) Section 16990.
- (17) Section 17110.
- (18) Section 17310.
- (19) Sections 26500 to 26585, inclusive.
- (20) Sections 26600 to 29150, inclusive.
- (21) Chapter 2 (commencing with Section 29500) of Division 8 of Title 4.
- (22) Section 30105.
- (23) Sections 30150 to 30165, inclusive.

- (24) Sections 31705 to 31830, inclusive.
- (25) Section 32315.
- (26) Section 34205.
- (27) Sections 34350 to 34370, inclusive.

(b) Except as stated in subdivision (c), the provisions listed in subdivision (a) may be referred to as “former Article 4 of Chapter 1 provisions.”

(c) Subdivision (a) does not include any section that is first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

**Comment.** Section 16575 is new. It provides a convenient means of referring to former Sections 12070-12086.

For a disposition table showing where each provision in former Sections 12070-12086 was recodified, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, \_\_\_ Cal. L. Revision Comm’n Reports \_\_\_ (2009).

**§ 16580. “Former Chapter 1 provisions”**

16580. (a) Except as stated in subdivision (c), the following provisions were formerly included in Chapter 1 (commencing with Section 12000) of Title 2 of Part 4, which was entitled “Firearms”:

- (1) Sections 12001 to 12022.95, inclusive.
- (2) Sections 16120 to 16140, inclusive.
- (3) Subdivision (b) of Section 16170, to the extent it continues former Sections 12001, 12078, 12085, and 12088.8.
- (4) Subdivision (c) of Section 16170.
- (5) Section 16190.
- (6) Sections 16220 to 16240, inclusive.
- (7) Section 16250, to the extent it continues former Section 12001.
- (8) Section 16260.
- (9) Sections 16320 to 16340, inclusive.
- (10) Section 16360.
- (11) Sections 16400 and 16410.
- (12) Section 16430.
- (13) Section 16450, to the extent it continues former Section 12086.
- (14) Subdivision (b) of Section 16460.
- (15) Section 16470.
- (16) Section 16490.
- (17) Subdivision (a) of Section 16520, to the extent it continues former Section 12001.
- (18) Subdivisions (b) to (g), inclusive, of Section 16520.
- (19) Sections 16530 to 16550, inclusive.
- (20) Section 16570.
- (21) Sections 16600 to 16640, inclusive.
- (22) Sections 16670 to 16690, inclusive.
- (23) Sections 16720 to 16760, inclusive.

- (24) Sections 16800 and 16810.
- (25) Sections 16830 to 16870, inclusive.
- (26) Sections 16920 to 16960, inclusive.
- (27) Sections 16990 and 17000.
- (28) Sections 17020 to 17070, inclusive.
- (29) Section 17090, to the extent it continues former Section 12020.
- (30) Section 17110.
- (31) Section 17125.
- (32) Section 17160.
- (33) Sections 17170 to 17200, inclusive.
- (34) Sections 17270 to 17290, inclusive.
- (35) Section 17310.
- (36) Sections 17330 to 17505, inclusive.
- (37) Sections 17515 to 18500, inclusive.
- (38) Sections 19100 to 19290, inclusive.
- (39) Sections 20200 to 21390, inclusive.
- (40) Sections 21790 to 22490, inclusive.
- (41) Sections 23500 to 30290, inclusive.
- (42) Sections 31500 to 31590, inclusive.
- (43) Sections 31705 to 31830, inclusive.
- (44) Sections 32310 to 32450, inclusive.
- (45) Sections 32900 to 33320, inclusive.
- (46) Sections 33600 to 34370, inclusive.

(b) Except as stated in subdivision (c), the provisions listed in subdivision (a) may be referred to as “former Chapter 1 provisions.”

(c) Subdivision (a) does not include any section that is first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

**Comment.** Section 16580 is new. It provides a convenient means of referring to former Sections 12000-12101.

For a disposition table showing where each provision in former Sections 12000-12101 was recodified, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, \_\_ Cal. L. Revision Comm’n Reports \_\_ (2009).

**§ 16585. “Former Section 12078 provisions”**

16585. (a) Except as stated in subdivision (e), the following provisions were included in former Section 12078, as that section read in Section 20 of Chapter 698 of the Statutes of 2008:

- (1) Subdivision (b) of Section 16170, as it pertains to former Section 12078.
- (2) Section 16720.
- (3) Subdivision (a) of Section 16730, as it pertains to former Section 12078.
- (4) Subdivision (b) of Section 16730.
- (5) Section 16990.
- (6) Sections 26600 to 26615, inclusive.

- (7) Sections 26950 to 27140, inclusive.
- (8) Sections 27400 to 27415, inclusive.
- (9) Subdivision (b) of Section 27505, as it pertains to former Section 12078.
- (10) Sections 27600 to 28000, inclusive.
- (11) Sections 28400 to 28415, inclusive.
- (12) Sections 30150 to 30165, inclusive.
- (13) Sections 31705 to 31830, inclusive.
- (14) Sections 34355 to 34370, inclusive.

(b) Except as stated in subdivision (e), the provisions listed in subdivision (a) may be referred to as “former Section 12078 provisions.”

(c) Except as stated in subdivision (e), the following provisions were included in subdivision (a) of former Section 12078, as that section read in Section 20 of Chapter 698 of the Statutes of 2008:

- (1) Sections 26600 to 26615, inclusive.
- (2) Section 26950.
- (3) Sections 27050 to 27065, inclusive.
- (4) Sections 27400 to 27415, inclusive.
- (5) Sections 27600 to 27615, inclusive.
- (6) Section 27650.
- (7) Sections 27850 to 27860, inclusive.
- (8) Sections 28400 to 28415, inclusive.
- (9) Sections 30150 to 30165, inclusive.
- (10) Sections 31705 to 31735, inclusive.
- (11) Sections 34355 to 34370, inclusive.

(d) Except as stated in subdivision (e), the provisions listed in subdivision (c) may be referred to as “former Section 12078(a) provisions.”

(e) Subdivisions (a) and (c) do not include any section that is first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

**Comment.** Section 16585 is new. It provides a convenient means of referring to the provisions that comprised former Section 12078.

For a disposition table showing where each provision in former Section 12078 was recodified, see *Nonsubstantive Recodification of Deadly Weapon Statutes*, \_\_ Cal. L. Revision Comm’n Reports \_\_ (2009).

**§ 16590. “Generally prohibited weapon”**

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

- (a) An air gauge knife, as prohibited by Section 20310.
- (b) Ammunition that contains or consists of a flechette dart, as prohibited by Section 30210.
- (c) A ballistic knife, as prohibited by Section 21110.
- (d) A belt buckle knife, as prohibited by Section 20410.

- (e) A bullet containing or carrying an explosive agent, as prohibited by Section 30210.
- (f) A camouflaging firearm container, as prohibited by Section 24310.
- (g) A cane gun, as prohibited by Section 24410.
- (h) A cane sword, as prohibited by Section 20510.
- (i) A concealed dirk or dagger, as prohibited by Section 21310.
- (j) A concealed explosive substance, other than fixed ammunition, as prohibited by Section 19100.
- (k) A firearm that is not immediately recognizable as a firearm, as prohibited by Section 24510.
- (l) A large-capacity magazine, as prohibited by Section 32310.
- (m) A leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, as prohibited by Section 22210.
- (n) A lipstick case knife, as prohibited by Section 20610.
- (o) Metal knuckles, as prohibited by Section 21810.
- (p) A metal military practice handgrenade or a metal replica handgrenade, as prohibited by Section 19200.
- (q) A multiburst trigger activator, as prohibited by Section 32900.
- (r) A nunchaku, as prohibited by Section 22010.
- (s) A shobi-zue, as prohibited by Section 20710.
- (t) A short-barreled rifle or short-barreled shotgun, as prohibited by Section 33215.
- (u) A shuriken, as prohibited by Section 22410.
- (v) An unconventional pistol, as prohibited by Section 31500.
- (w) An undetectable firearm, as prohibited by Section 24610.
- (x) A wallet gun, as prohibited by Section 24710.
- (y) A writing pen knife, as prohibited by Section 20910.
- (z) A zip gun, as prohibited by Section 33600.

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

See Sections 16140 (“air gauge knife”), 16220 (“ballistic knife”), 16260 (“belt buckle knife”), 16320 (“camouflaging firearm container”), 16330 (“cane gun”), 16340 (“cane sword”), 16470 (“dirk” or “dagger”), 16510 (“explosive”), 16520 (“firearm”), 16570 (“flechette dart”), 16740 (“large-capacity magazine”), 16760 (“leaded cane”), 16830 (“lipstick case knife”), 16920 (“metal knuckles”), 16930 (“multiburst trigger activator”), 16940 (“nunchaku”), 17160 (“shobi-zue”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17200 (“shuriken”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17350 (“writing pen knife”), 17360 (“zip gun”).

#### § 16600. “Great bodily injury”

16600. As used in Chapter 2 (commencing with Section 25100) of Division 4 of Title 4, “great bodily injury” means a significant or substantial physical injury.

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

**§ 16610. “Gun safe”**

16610. As used in this part, “gun safe” means a locking container that fully contains and secures one or more firearms, and that meets the standards for gun safes adopted pursuant to Section 23650.

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

**§ 16620. “Gun Show Trader”**

16620. As used in this part, “Gun Show Trader” means a person described in Section 26525.

**Comment.** Section 16620 continues the second paragraph of former Section 12070(b)(5) without substantive change.

**§ 16630. “Gunsmith”**

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

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

**§ 16640. “Handgun”**

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

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

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

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

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

**§ 16650. “Handgun ammunition”**

16650. As used in this part, “handgun ammunition” means ammunition principally for use in pistols, revolvers, and other firearms capable of being

concealed upon the person, notwithstanding that the ammunition may also be used in some rifles.

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

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

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

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

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

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

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

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

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

16670. As used in this part, “handgun safety certificate” means a certificate issued by the Department of Justice pursuant to Sections 31610 to 31700, inclusive, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article was operative on or after January 1, 2003.

**Comment.** Section 16670 continues former Section 12001(q) without substantive change.

See Section 16640 (“handgun”).

**§ 16680. “Hard plastic knuckles” or “hard wooden knuckles”**

16680. As used in this part, “hard plastic knuckles” or “hard wooden knuckles” means any device or instrument made wholly or partially of plastic or of wood, composite, or paper materials that is not metal knuckles, that is worn for purposes of offense or defense in or on the hand, and that either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The plastic, wood, composite, or paper products contained in the device may help support the hand or fist, provide a shield to

protect it, or consist of projections or studs that would contact the individual receiving a blow.

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

See Section 16920 (“metal knuckles”).

**§ 16690. “Honorably retired”**

16690. As used in Sections 25650 and 26020, Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4, and Article 3 (commencing with Section 25900) of Chapter 3 of Division 5 of Title 4, “honorably retired” includes any peace officer who has qualified for, and has accepted, a service or disability retirement. As used in those provisions, “honorably retired” does not include an officer who has agreed to a service retirement in lieu of termination.

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

**§ 16700. “Imitation firearm”**

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

(b) As used in Section 20165, “imitation firearm” does not include any of the following:

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

(2) A BB device.

(3) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, as provided by federal regulations governing imitation firearms, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device’s complete contents, as provided by federal regulations governing imitation firearms.

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

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

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

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

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

(a) Parent and child.

(b) Grandparent and grandchild.

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

**§ 16730. “Infrequent”**

16730. (a) As used in Section 31815 and in Division 6 (commencing with Section 26500) of Title 4, “infrequent” means:

(1) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year.

(2) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

(b) As used in Section 27900, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by Section 27900, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(c) As used in this section, “transaction” means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

**Comment.** Subdivision (a) of Section 16730 continues the first sentence of former Section 12070(c)(1)(A), former Section 12070(c)(1)(B), and former Section 12078(u)(1) without substantive change.

Subdivision (b) continues the second paragraph of former Section 12078(g)(1) without substantive change.

Subdivision (c) continues the second sentence of former Section 12070(c)(1)(A) without substantive change.

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

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

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

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

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

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

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

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

16750. (a) As used in Section 25400, “lawful possession of the firearm” means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the

permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(b) As used in Article 2 (commencing with Section 25850), Article 3 (commencing with Section 25900), and Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4, “lawful possession of the firearm” means that the person who has possession or custody of the firearm either lawfully acquired and lawfully owns the firearm or has the permission of the lawful owner or person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

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

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

See Section 16520 (“firearm”).

**§ 16760. “Leaded cane”**

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

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

**§ 16770. “Less lethal ammunition”**

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

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

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

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

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16780 (“less lethal weapon”).

**§ 16780. “Less lethal weapon”**

16780. As used in this part,

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

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

- (1) Pistol, revolver, or firearm.
- (2) Machinegun.
- (3) Rifle or shotgun using fixed ammunition consisting of standard primer and powder and not capable of being concealed upon the person.
- (4) A pistol, rifle, or shotgun that is a firearm having a barrel less than 0.18 inches in diameter and that is designed to expel a projectile by any mechanical means or by compressed air or gas.
- (5) When used as designed or intended by the manufacturer, any weapon that is commonly regarded as a toy gun, and that as a toy gun is incapable of inflicting any impairment of physical condition, function, or senses.
- (6) A destructive device.
- (7) A tear gas weapon.
- (8) A bow or crossbow designed to shoot arrows.
- (9) A device commonly known as a slingshot.
- (10) A device designed for the firing of stud cartridges, explosive rivets, or similar industrial ammunition.
- (11) A device designed for signaling, illumination, or safety.
- (12) An assault weapon.

**Comment.** Section 16780 continues former Section 12601(a)-(b) without substantive change. See Sections 16460 (“destructive device”), 16520 (“firearm”), 16880 (“machinegun”), 17010 (“pistol”), 17080 (“revolver”), 17250 (“tear gas weapon”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

#### § 16790. “Licensed gun dealer”

16790. As used in Article 5 (commencing with Section 30900) and Article 7 (commencing with Section 31050) of Chapter 2 of Division 10 of Title 4, “licensed gun dealer” means a person who is licensed pursuant to Sections 26700 to 26915, inclusive, and who has a permit to sell assault weapons or .50 BMG rifles pursuant to Section 31005.

**Comment.** Section 16790 continues former Section 12290(c) without substantive change. See also former Section 12285(b)-(c), which used the same definition of “licensed gun dealer.”

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

See also Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### § 16800. “Licensed gun show producer”

16800. As used in this part, “licensed gun show producer” means a person who has been issued a certificate of eligibility by the Department of Justice pursuant to Section 27200. No regulations shall be required to implement this section.

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

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

16810. As used in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4, “licensed premises,” “licensee’s business premises,” or “licensee’s place of business” means the building designated in the license.

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

**§ 16820. “Licensee”**

16820. (a) For purposes of the provisions listed in Section 16580, use of the term “licensee” is governed by Section 26700.

(b) For purposes of Chapter 2 (commencing with Section 29030) of Division 7 of Title 4, use of the term “licensee” is governed by Section 29030.

**Comment.** Subdivision (a) of Section 16820 is new. It is intended to help persons locate the definition of “licensee” that relates to firearms dealing and applies for purposes of the specified provisions.

Subdivision (b) is new. It is intended to help persons locate the definition of “licensee” that relates to firearms manufacturing and applies for purposes of key provisions relating to such manufacturing.

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

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

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

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

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

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

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

**§ 16830. “Lipstick case knife”**

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

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

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

16840. (a) As used in Section 25800, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(b) As used in Chapter 2 (commencing with Section 25100) of Division 4 of Title 4, in subparagraph (A) of paragraph (6) of subdivision (c) of Section 25400, and in Sections 25850 to 26055, inclusive,

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

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

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

Subdivision (b) continues former Sections 12031(g) and 12035(a)(2) without substantive change. See also former Section 12025(b)(6)(A), which used the same definition of “loaded.”

See Section 16520 (“firearm”).

See also Fish & Game Code § 2006 (“A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.”).

#### § 16850. “Locked container”

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

**Comment.** Section 16850 continues former Sections 12026.2(d), 12035(a)(5), and 12036(a)(4) without substantive change. See also former Sections 12020(b)(17)(E) and 12094(b)(4)(E), which used the same definition of “locked container.” Section 16850 also continues the combined effect of subdivision (c) and the last phrase of paragraph (a)(1) (“other than the utility or glove compartment”) of former Section 12026.1 without substantive change.

See Section 16520 (“firearm”).

#### § 16860. “Locking device” for firearm

16860. As used in Sections 16850, 25105, and 25205, “locking device” means a device that is designed to prevent a firearm from functioning and, when applied to the firearm, renders the firearm inoperable.

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

See Section 16520 (“firearm”).

#### § 16870. “Long-gun safe”

16870. As used in this part, “long-gun safe” means a locking container designed to fully contain and secure a rifle or shotgun, which has a locking system consisting of either a mechanical combination lock or an electronic combination lock that has at least 1,000 possible unique combinations consisting of a minimum

of three numbers, letters, or symbols per combination, and is not listed on the roster maintained pursuant to Section 23655.

**Comment.** Section 16870 continues former Section 12087.6(c) without substantive change. See also former Section 12071(b)(20)(G)(ii)(II), which appears to have been subject to the same definition of “long-gun safe” (due to the requirement that the long-gun safe “mee[t] the standards for department-approved gun safes set forth in Section 12088.2”).

See Sections 17090 (“rifle”), 17190 (“shotgun”).

#### § 16880. “Machinegun”

16880. (a) As used in this part, “machinegun” means any weapon that shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

(b) The term “machinegun” also includes the frame or receiver of any weapon described in subdivision (a), any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if those parts are in the possession or under the control of a person.

(c) The term “machinegun” also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

**Comment.** Section 16880 continues former Section 12200 without substantive change. See also former Sections 12001(n)(12), 12072(f)(1)(A), 12278(a), and 12601(b)(2), which used the same definition of “machinegun.”

#### § 16890. “Magazine”

16890. As used in Section 30515, “magazine” means any ammunition feeding device.

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

#### § 16900. “Magazine disconnect mechanism”

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

**Comment.** Section 16900 continues former Section 12126(d) without substantive change. See also former Section 12130(d)(1)-(3), which used the same definition of “magazine disconnect mechanism.”

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

#### § 16920. “Metal knuckles”

16920. As used in this part, “metal knuckles” means any device or instrument made wholly or partially of metal that is worn for purposes of offense or defense

in or on the hand and that either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

**Comment.** Section 16920 continues former Section 12020(c)(7) without substantive change. See also former Sections 12020.1 and 12029, which referred to former Section 12020.

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

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

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

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

**Comment.** Section 16930 continues former Section 12020(c)(23) without substantive change. See Section 16520 (“firearm”).

**§ 16940. “Nunchaku”**

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

**Comment.** Section 16940 continues former Section 12020(c)(3) without substantive change. See also former Section 12029, which referred to former Section 12020.

**§ 16960. “Operation of law”**

16960. As used in Article 1 (commencing with Section 26500) of Chapter 1 of Division 6 of Title 4, “operation of law” includes, but is not limited to, any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 16970. “Person”**

16970. As used in Sections 16790 and 17505 and in Chapter 2 (commencing with Section 30500) of Division 10 of Title 4, “person” means an individual, partnership, corporation, limited liability company, association, or any other group or entity, regardless of how it was created.

**Comment.** Section 16970 continues former Section 12277 without substantive change. See also former Section 12020.5, which used the same definition of “person.”

See Section 7 (“the word ‘person’ includes a corporation as well as a natural person”).

**§ 16980. “Person licensed pursuant to Sections 26700 to 26915, inclusive”**

16980. Use of the term “person licensed pursuant to Sections 26700 to 26915, inclusive” is governed by Section 26700.

**Comment.** Section 16980 is new. It is intended to help persons locate the definition of “person licensed pursuant to Sections 26700 to 26915, inclusive.”

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

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

16990. As used in any provision listed in subdivision (a) of Section 16585, the phrase “a person taking title or possession of a firearm by operation of law” includes, but is not limited to, any of the following instances in which an individual receives title to, or possession of, a firearm:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The individual is not a person licensed pursuant to Sections 26700 to 26915, inclusive.

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

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

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

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

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

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

(8) The handgun was not delivered to the individual by a person licensed pursuant to Sections 26700 to 26915, inclusive, who delivered that firearm following the procedures set forth in Section 27540 and Sections 26700 to 26915, inclusive.

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

(10) The handgun is not a firearm that is prohibited by any provision listed in Section 16590.

(11) The handgun is not an assault weapon.

(12) The handgun is not a machinegun.

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

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

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

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

**Comment.** Subdivision (a) of Section 17000 continues former Section 12001(n) without substantive change. For guidance on what constitutes an assault weapon, see Sections 30510 (“assault weapon”) and 30515 (further clarification of “assault weapon”). For guidance on what constitutes a machinegun, see Section 16880 (“machinegun”).

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

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

#### § 17010. “Pistol”

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

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

#### § 17020. “Principal place of employment or business”

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

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

#### § 17030. “Prohibited area”

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

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

#### § 17070. “Responsible adult”

17070. As used in this part, “responsible adult” means a person at least 21 years of age who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

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

#### § 17080. “Revolver”

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

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

**§ 17090. “Rifle”**

17090. As used in Sections 16530, 16640, 16650, 16660, 16870, and 17170, Sections 17720 to 17730, inclusive, Section 17740, subdivision (f) of Section 27555, Article 2 (commencing with Section 30300) of Chapter 1 of Division 10 of Title 4, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**Comment.** Section 17090 continues former Sections 12020(c)(20) and 12323(d) without substantive change. See also former Sections 12001(f), 12001.5, 12029, 12072(f)(1)(A), and 12087.6(c), which referred to former Section 12020.

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

17110. As used in Section 26890, “secure facility” means a building that meets all of the following specifications:

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

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

(2) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least ½-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.

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

(b) All windows are covered with steel bars.

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

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

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

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

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

See also Sections 29141 (“secure facility” for firearm storage by manufacturer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year).

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

17111. For purposes of Chapter 2 (commencing with Section 29030) of Division 7 of Title 4, use of the term “secure facility” is governed by Sections 29141 and 29142.

**Comment.** Section 17111 is new. It is intended to help persons locate the standard definition of “secure facility” that applies to firearm storage by a manufacturer, and the special definition of “secure facility” that applies to firearm storage by a manufacturer producing fewer than 500 firearms per calendar year.

**§ 17125. “Security Exemplar”**

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

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

**§ 17140. “Semiautomatic pistol”**

17140. As used in Sections 16900 and 31910, “semiautomatic pistol” means a pistol with an operating mode that uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger.

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

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 17160. “Shobi-zue”**

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

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

**§ 17170. “Short-barreled rifle”**

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

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

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

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

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

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

**Comment.** Section 17170 continues former Section 12020(c)(2) without substantive change. See also former Sections 12001(f), 12001.5, 12029, and 12072(f)(1)(A), which used the same definition of “short-barreled rifle.”

See Section 17090 (“rifle”).

#### **§ 17180. “Short-barreled shotgun”**

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

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

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

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

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

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

**Comment.** Section 17180 continues former Section 12020(c)(1) without substantive change. See also former Sections 12001(f), 12001.5, 12029, and 12072(f)(1)(A), which used the same definition of “short-barreled shotgun.”

See Sections 16520 (“firearm”), 17190 (“shotgun”).

#### **§ 17190. “Shotgun”**

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

**Comment.** Section 17190 continues former Section 12020(c)(21) without substantive change. See also former Sections 12001(f), 12001.5, 12029, 12072(f)(1)(A), and 12087.6(c), which referred to former Section 12020.

**§ 17200. “Shuriken”**

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

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

**§ 17210. “Silencer”**

17210. As used in Chapter 9 (commencing with Section 33410) of Division 10 of Title 4, “silencer” means any device or attachment of any kind designed, used, or intended for use in silencing, diminishing, or muffling the report of a firearm. The term “silencer” also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in assembly or fabrication of a silencer.

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

**§ 17220. “SKS rifle”**

17220. Use of the term “SKS rifle” is governed by Section 30710.

**Comment.** Section 17220 is new. It is intended to help persons locate the definition of “SKS rifle.”

**§ 17230. “Stun gun”**

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

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

**§ 17235. “Switchblade knife”**

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

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

**§ 17240. “Tear gas”**

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

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

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

**§ 17250. “Tear gas weapon”**

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

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

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

**Comment.** Section 17250 continues former Section 12402 without substantive change. See also former Section 12601(b)(7), which used the same definition of “tear gas weapon.”

**§ 17270. “Unconventional pistol”**

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

(a) It does not have a rifled bore.

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

**Comment.** Section 17270 continues former Section 12020(c)(12) without substantive change.

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

**§ 17280. “Undetectable firearm”**

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

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

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

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

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

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

**§ 17290. “Undetectable knife”**

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

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

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

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

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

**§ 17300. “Unsafe handgun”**

17300. Use of the phrase “unsafe handgun” is governed by Section 31910.

**Comment.** Section 17300 is new. It is intended to help persons locate the definition of “unsafe handgun.”

**§ 17310. “Used firearm”**

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

**Comment.** Section 17310 continues the fourth paragraph of former Section 12070(b)(5) without substantive change.

See Section 16520 (“firearm”).

**§ 17320. “Violent felony”**

17320. For purposes of Section 31360 only, “violent felony” refers to the specific crimes listed in subdivision (c) of Section 667.5, and to crimes defined under the applicable laws of the United States or any other state, government, or country that are reasonably equivalent to the crimes listed in subdivision (c) of Section 667.5.

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

**§ 17330. “Wallet gun”**

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

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

See Section 16520 (“firearm”).

**§ 17340. “Wholesaler”**

17340. (a) As used in this part, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Sections 26700 to 26915, inclusive, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

(b) “Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Sections 26700 to 26915, inclusive, and the regulations issued pursuant thereto. A wholesaler also does not include a person dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

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

**§ 17350. “Writing pen knife”**

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

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

**§ 17360. “Zip gun”**

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

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

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

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

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

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

## TITLE 2. WEAPONS GENERALLY

### DIVISION 1. MISCELLANEOUS RULES RELATING TO WEAPONS GENERALLY

#### § 17500. Bearing deadly weapon with intent to assault

17500. Every person having upon the person any deadly weapon, with intent to assault another, is guilty of a misdemeanor.

**Comment.** Section 17500 continues former Section 12024 without substantive change.

#### § 17505. Advertising sale of prohibited weapon or device

17505. It shall be unlawful for any person, as defined in Section 16970, to advertise the sale of any weapon or device, the possession of which is prohibited by Section 18710, 20110, 30315, 30320, 32625, or 33410, by Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4, or by any provision listed in Section 16590, in any newspaper, magazine, circular, form letter, or open publication that is published, distributed, or circulated in this state, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device.

**Comment.** Section 17505 continues former Section 12020.5 without substantive change.

#### § 17510. Picketing with deadly weapon

17510. (a) Any person who does any of the following acts while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor:

(1) Carries concealed upon the person, or within any vehicle which is under the person’s control or direction, any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries a loaded firearm upon the person or within any vehicle that is under the person’s control or direction.

(3) Carries a deadly weapon.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

(c) The following provisions shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a):

(1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4.

(2) Sections 25615 to 25655, inclusive.

(d) Sections 25900 to 26020, inclusive, shall not be construed to authorize any conduct described in paragraph (2) of subdivision (a).

**Comment.** Subdivision (a) of Section 17510 continues former Section 12590(a)(1)-(3) without substantive change.

With respect to the acts enumerated in subdivision (a), subdivision (b) continues former Section 12590(b) without substantive change. See also Section 830.95(b), which continues former Section 12590(b) with respect to picketing in the uniform of a peace officer.

Subdivisions (c) and (d) continue former Section 12590(c) without substantive change.

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

### **§ 17515. Officer carrying equipment authorized for enforcement of law or ordinance**

17515. Nothing in any provision listed in Section 16580 prohibits a police officer, special police officer, peace officer, or law enforcement officer from carrying any equipment authorized for the enforcement of law or ordinance in any city or county.

**Comment.** With respect to “any equipment authorized for the enforcement of law or ordinance in any city or county,” Section 17515 continues former Section 12002(a) without substantive change. The remainder of former Section 12002(a) is continued in Section 22295(a) without substantive change.

## **DIVISION 2. GENERALLY PROHIBITED WEAPONS**

### **CHAPTER 1. EXEMPTIONS**

#### **§ 17700. Exemption for antique firearm**

17700. The provisions listed in Section 16590 do not apply to any antique firearm.

**Comment.** Section 17700 continues the first sentence of former Section 12020(b)(5) without substantive change.

See Section 16170 (“antique firearm”).

#### **§ 17705. Exemption for firearm or ammunition constituting curio or relic**

17705. (a) The provisions listed in Section 16590 do not apply to any firearm or ammunition that is a curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and that is in the possession of a person permitted to possess the items under Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) Any person prohibited by Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code, from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is

punishable under Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this section is in violation of the applicable provision listed in Section 16590.

**Comment.** Section 17705 continues former Section 12020(b)(7) without substantive change. See Section 16520 (“firearm”).

**§ 17710. Exemption for “any other weapon” in possession of person permitted to possess it under federal Gun Control Act of 1968**

17710. (a) The provisions listed in Section 16590 do not apply to “any other weapon” as defined in subsection (e) of Section 5845 of Title 26 of the United States Code, which is in the possession of a person permitted to possess the weapons under the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto.

(b) Any person prohibited by Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code, from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable under Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this section is in violation of the applicable provision listed in Section 16590.

(c) The exemption provided by this section does not apply to a pen gun.

**Comment.** Section 17710 continues former Section 12020(b)(8) without substantive change.

**§ 17715. Exemption for historical society, museum, or institutional collection**

17715. The provisions listed in Section 16590 do not apply to any instrument or device that is possessed by a federal, state, or local historical society, museum, or institutional collection that is open to the public if all of the following conditions are satisfied:

(a) The instrument or device is properly housed.

(b) The instrument or device is secured from unauthorized handling.

(c) If the instrument or device is a firearm, it is unloaded.

**Comment.** Section 17715 continues former Section 12020(b)(9) without substantive change. See Section 16520 (“firearm”).

**§ 17720. Exemption for motion picture, television, video production, or entertainment event**

17720. The provisions listed in Section 16590 do not apply to any instrument or device, other than a short-barreled rifle or a short-barreled shotgun, which is possessed or used during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

**Comment.** Section 17720 continues former Section 12020(b)(10) without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 17725. Exemption for person who sells to historical society, museum, or institutional collection, or for purposes of entertainment event**

17725. The provisions listed in Section 16590 do not apply to any instrument or device, other than a short-barreled rifle or a short-barreled shotgun, which is sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by a person who is in the business of selling instruments or devices listed in Section 16590 solely to the entities referred to in Sections 17715 and 17720 when engaging in transactions with those entities.

**Comment.** Section 17725 continues former Section 12020(b)(11) without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 17730. Exemption for law enforcement or person who sells to law enforcement**

17730. The provisions listed in Section 16590 do not apply to any of the following:

(a) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or a short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of its official duties.

(b) The possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any peace officer of any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, when the officer is on duty and the use is authorized by the agency and is within the course and scope of the officer’s duties.

(c) Any weapon, device, or ammunition, other than a short-barreled rifle or a short-barreled shotgun, that is sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by, any person who is in the business of selling weapons, devices, and ammunition listed in Section 16590 solely to the entities referred to in subdivision (a) when engaging in transactions with those entities.

**Comment.** Subdivisions (a) and (b) of Section 17730 continue former Section 12020(b)(12) without substantive change.

Subdivision (c) continues former Section 12020(b)(13) without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 17735. Exemption for transportation of non-firearm to law enforcement for disposition according to law**

17735. The provisions listed in Section 16590 do not apply to any instrument, ammunition, weapon, or device that is not a firearm and is found and possessed by a person who meets all of the following:

(a) The person is not prohibited from possessing firearms or ammunition under subdivision (a) of Section 30305 or Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code.

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

(c) If the person is transporting the item, the person is transporting it to a law enforcement agency for disposition according to law.

**Comment.** Section 17735 continues former Section 12020(b)(16) without substantive change. See Section 16520 ("firearm").

**§ 17740. Exemption for transportation of firearm to law enforcement for disposition according to law**

17740. The provisions listed in Section 16590 do not apply to any firearm, other than a short-barreled rifle or short-barreled shotgun, which is found and possessed by a person who meets all of the following:

(a) The person is not prohibited from possessing firearms or ammunition under subdivision (a) of Section 30305 or Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code.

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

(c) If the person is transporting the firearm, the person is transporting it to a law enforcement agency for disposition according to law.

(d) Before transporting the firearm to a law enforcement agency, the person has given prior notice to that law enforcement agency that the person is transporting the firearm to that law enforcement agency for disposition according to law.

(e) The firearm is transported in a locked container as defined in Section 16850.

**Comment.** Section 17740 continues former Section 12020(b)(17) without substantive change. See Sections 16520 ("firearm"), 17170 ("short-barreled rifle"), 17180 ("short-barreled shotgun").

**§ 17745. Exemption for possession by forensic laboratory**

17745. The provisions listed in Section 16590 do not apply to the possession of any weapon, device, or ammunition by a forensic laboratory or by any authorized agent or employee thereof in the course and scope of the person's authorized activities.

**Comment.** Section 17745 continues former Section 12020(b)(18) without substantive change.

## CHAPTER 2. MISCELLANEOUS PROVISIONS

### § 17800. Distinct and separate offense

17800. For purposes of the provisions listed in Section 16590, a violation as to each firearm, weapon, or device enumerated in any of those provisions shall constitute a distinct and separate offense.

**Comment.** Section 17800 continues former Section 12001(l) without substantive change. See Section 16520 (“firearm”).

## DIVISION 3. SURRENDER, DISPOSAL, AND ENJOINING OF WEAPONS CONSTITUTING A NUISANCE

### § 18000. Surrender of specified weapons constituting nuisance

18000. (a) Any weapon described in Section 19190, 21390, 21590, or 25700, or, upon conviction of the defendant or upon a juvenile court finding that an offense that would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in Section 29300, shall be surrendered to one of the following:

(1) The sheriff of a county.

(2) The chief of police or other head of a municipal police department of any city or city and county.

(3) The chief of police of any campus of the University of California or the California State University.

(4) The Commissioner of the California Highway Patrol.

(b) For purposes of this section, the Commissioner of the California Highway Patrol shall receive only weapons that were confiscated by a member of the California Highway Patrol.

(c) A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

**Comment.** Subdivision (a) of Section 18000 continues the first sentence of former Section 12028(c) without substantive change.

Subdivision (b) continues the second sentence of former Section 12028(c) without substantive change.

In combination with Section 29300(b), subdivision (c) continues the second sentence of former Section 12028(b)(1) without substantive change.

For guidance on disposal of weapons surrendered pursuant to this section, see Section 18005 (disposal of weapons constituting nuisance). For additional guidance on surrender of deadly weapons, see Sections 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 33800 (receipt for firearm taken into custody by law enforcement officer).

See Section 16520 (“firearm”).

**§ 18005. Disposal of weapons constituting nuisance**

18005. (a) An officer to whom weapons are surrendered under Section 18000, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officer in charge of them considers to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Sections 26700 to 26915, inclusive, to engage in businesses involving any weapon purchased.

(b) If any weapon has been stolen and is thereafter recovered from the thief or the thief's transferee, or is used in a manner as to constitute a nuisance under Section 19190, 21390, 21590, or 29300, or subdivision (a) of Section 25700 without the prior knowledge of its lawful owner that it would be so used, it shall not be offered for sale under subdivision (a) but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

(c) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold under subdivision (b), the weapon, in the month of July, next succeeding, or sooner, if necessary to conserve local resources, including space and utilization of personnel who maintain files and security of those weapons, shall be destroyed so that it can no longer be used as a weapon subject to surrender under Section 18000, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(d) No stolen weapon shall be sold or destroyed pursuant to subdivision (b) or (c) unless reasonable notice is given to its lawful owner, if the lawful owner's identity and address can be reasonably ascertained.

**Comment.** Subdivision (a) of Section 18005 continues the third sentence of former Section 12028(c) without substantive change.

Subdivision (b) continues the fourth sentence of former Section 12028(c) without substantive change.

Subdivision (c) continues former Section 12028(d) without substantive change.

Subdivision (d) continues former Section 12028(f) without substantive change.

For additional guidance on disposal of weapons taken into custody by a court or law enforcement agency, see Sections 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18010. Treatment of other weapons constituting nuisance**

18010. (a) The Attorney General, district attorney, or city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a nuisance under any of the following provisions:

- (1) Section 19290, relating to metal handgrenades.
  - (2) Section 20390, relating to an air gauge knife.
  - (3) Section 20490, relating to a belt buckle knife.
  - (4) Section 20590, relating to a cane sword.
  - (5) Section 20690, relating to a lipstick case knife.
  - (6) Section 20790, relating to a shobi-zue.
  - (7) Section 20990, relating to a writing pen knife.
  - (8) Section 21190, relating to a ballistic knife.
  - (9) Section 21890, relating to metal knuckles.
  - (10) Section 22090, relating to a nunchaku.
  - (11) Section 22290, relating to a leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot.
  - (12) Section 22490, relating to a shuriken.
  - (13) Section 24390, relating to a camouflaging firearm container.
  - (14) Section 24490, relating to a cane gun.
  - (15) Section 24590, relating to a firearm not immediately recognizable as a firearm.
  - (16) Section 24690, relating to an undetectable firearm.
  - (17) Section 24790, relating to a wallet gun.
  - (18) Section 30290, relating to flechette dart ammunition and to a bullet with an explosive agent.
  - (19) Section 31590, relating to an unconventional pistol.
  - (20) Section 32390, relating to a large-capacity magazine.
  - (21) Section 32990, relating to a multiburst trigger activator.
  - (22) Section 33290, relating to a short-barreled rifle or a short-barreled shotgun.
  - (23) Section 33690, relating to a zip gun.
- (b) These weapons shall be subject to confiscation and summary destruction whenever found within the state.
- (c) These weapons shall be destroyed in the same manner described in Section 18005, except that upon the certification of a judge or of the district attorney that the ends of justice will be served thereby, the weapon shall be preserved until the necessity for its use ceases.

**Comment.** Subdivision (a) of Section 18010 continues the end of the first sentence of former Section 12029 without substantive change.

Subdivision (b) continues the second sentence of former Section 12029 without substantive change.

Subdivision (c) continues the third sentence of former Section 12029 without substantive change.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

## DIVISION 4. SEIZURE OF FIREARM OR OTHER DEADLY WEAPON AT SCENE OF DOMESTIC VIOLENCE

### CHAPTER 1. SEIZURE AND SUBSEQUENT PROCEDURES

#### § 18250. Seizure of firearm or other deadly weapon at scene of domestic violence

18250. If any of the following persons is at the scene of a domestic violence incident involving a threat to human life or a physical assault, that person shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present:

(a) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1.

(b) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.

(c) A member of the University of California Police Department, as defined in subdivision (b) of Section 830.2.

(d) An officer listed in Section 830.6, while acting in the course and scope of the officer's employment as a peace officer.

(e) A member of a California State University Police Department, as defined in subdivision (c) of Section 830.2.

(f) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.

(g) A peace officer, as defined in subdivision (d) of Section 830.31.

(h) A peace officer, as defined in subdivisions (a) and (b) of Section 830.32.

(i) A peace officer, as defined in Section 830.5.

**Comment.** Section 18250 continues the first sentence of former Section 12028.5(b) without substantive change.

For what constitutes a domestic violence incident, see Sections 16120 ("abuse"), 16490 ("domestic violence"). For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18255. Receipt for weapon**

18255. (a) Upon taking custody of a firearm or other deadly weapon pursuant to this division, the officer shall give the owner or person who possessed the firearm a receipt.

(b) The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm.

(c) The receipt shall indicate where the firearm or other deadly weapon can be recovered, the time limit for recovery as required by this division, and the date after which the owner or possessor can recover the firearm or other deadly weapon.

**Comment.** Subdivision (a) of Section 18255 continues the second sentence of former Section 12028.5(b) without substantive change.

Subdivision (b) continues the third sentence of former Section 12028.5(b) without substantive change.

Subdivision (c) continues the fourth sentence of former Section 12028.5(b) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”). See also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18260. Delivery of deadly weapon seized by peace officer for community college or school district**

18260. Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or deadly weapon pursuant to this division, shall deliver the firearm within 24 hours to the city police department or county sheriff’s office in the jurisdiction where the college or school is located.

**Comment.** Section 18260 continues former Section 12028.5(c) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”). See also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18265. Holding period**

18265. (a) No firearm or other deadly weapon taken into custody pursuant to this division shall be held less than 48 hours.

(b) Except as provided in Section 18400, if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure, or as soon thereafter as possible, but no later than five business days after the owner or person who was in lawful possession demonstrates compliance with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

(c) In any civil action or proceeding for the return of any firearm, ammunition, or other deadly weapon seized by any state or local law enforcement agency and not returned within five business days after the initial seizure, except as provided in Section 18270, the court shall allow reasonable attorney's fees to the prevailing party.

**Comment.** Subdivision (a) of Section 18265 continues the fifth sentence of former Section 12028.5(b) without substantive change.

Subdivision (b) continues the sixth sentence of former Section 12028.5(b) without substantive change.

Subdivision (c) continues the seventh sentence of former Section 12028.5(b) without substantive change.

For what constitutes a domestic violence incident, see Sections 16120 ("abuse"), 16490 ("domestic violence"). For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18270. Return of stolen weapon**

18270. If a firearm or other deadly weapon has been stolen and has been taken into custody pursuant to this division, it shall be restored to the lawful owner upon satisfaction of all of the following conditions:

(a) Its use for evidence has been served.

(b) The owner identifies the firearm or other deadly weapon and provides proof of ownership.

(c) The law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

**Comment.** Section 18270 continues former Section 12028.5(d) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18275. Sale or destruction of deadly weapon held longer than one year**

18275. (a) Any firearm or other deadly weapon that has been taken into custody and held by any of the following law enforcement authorities for longer than 12 months, and has not been recovered by the owner or person who had lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivisions (a) and (b) of Section 18000 and subdivisions (a) and (b) of Section 18005:

(1) A police, university police, or sheriff’s department.

(2) A marshal’s office.

(3) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.

(4) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.

(5) A peace officer, as defined in subdivision (d) of Section 830.31.

(6) A peace officer, as defined in Section 830.5.

(b) If a firearm or other deadly weapon is not recovered within 12 months due to an extended hearing process as provided in Section 18420, it is not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

**Comment.** Section 18275 continues former Section 12028.5(e) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

CHAPTER 2. PROCEDURE WHERE AGENCY BELIEVES RETURN OF  
WEAPON WOULD CREATE DANGER

**§ 18400. Petition to determine whether weapon should be returned**

18400. (a) When a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon seized under this division would be likely to result in endangering the victim or the person who reported the assault or threat, the agency shall so advise the owner of the firearm or other deadly weapon, and within 60 days of the date of seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(b) The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition.

(c) Including any extension of time granted in response to an ex parte request, a petition must be filed within 90 days of the date of seizure of the firearm or other deadly weapon.

**Comment.** Section 18400 continues former Section 12028.5(f) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18405 (notice of petition), 18410 (hearing on petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

**§ 18405. Notice of petition**

18405. (a) If a petition is filed under Section 18400, the law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person’s last known address, by registered mail, return receipt requested, that the person has 30 days from the date of receipt of the notice to respond to the court clerk to confirm the person’s desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon.

(b) For purposes of this section, the person’s last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident.

(c) In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

**Comment.** Section 18405 continues former Section 12028.5(g) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18410 (hearing on petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

#### **§ 18410. Hearing on petition**

18410. (a) If the person who receives a petition under Section 18405 requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request.

(b) The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing.

(c) Unless it is shown by a preponderance of the evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney’s fees to the prevailing party.

**Comment.** Section 18410 continues former Section 12028.5(h) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice of petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

#### **§ 18415. Order of default**

18415. If the person who receives a petition under Section 18405 does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Sections 18000 and 18005.

**Comment.** Section 18415 continues former Section 12028.5(i) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice of petition), 18410 (hearing on petition), 18420 (petition for second hearing).

See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

#### **§ 18420. Petition for second hearing**

18420. (a) If, at a hearing under Section 18410, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing.

(b) If there is a petition for a second hearing, unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney’s fees to the prevailing party.

(c) If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Sections 18000 and 18005.

**Comment.** Section 18420 continues former Section 12028.5(j) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice of petition), 18410 (hearing on petition), 18415 (order of default).

See also Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

## CHAPTER 3. LIABILITY

### **§ 18500. No liability for act in good faith under this division**

18500. The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this division.

**Comment.** Section 18500 continues former Section 12028.5(k) without substantive change.

## DIVISION 5. DESTRUCTIVE DEVICES, EXPLOSIVES, AND SIMILAR WEAPONS

### CHAPTER 1. DESTRUCTIVE DEVICES AND EXPLOSIVES GENERALLY

#### Article 1. Prohibited Acts

### **§ 18710. Unlawful possession of destructive device other than fixed ammunition greater than .60 caliber**

18710. (a) Except as provided by this chapter, any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, is guilty of a public offense.

(b) A person, firm, or corporation who is convicted of an offense under subdivision (a) shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by both this fine and imprisonment.

**Comment.** Section 18710 continues former Section 12303 without substantive change. See Section 16460 (“destructive device”).

### **§ 18715. Reckless or malicious possession of destructive device or explosive in public place**

18715. (a) Every person who recklessly or maliciously has in possession any destructive device or any explosive in any of the following places is guilty of a felony:

- (1) On a public street or highway.
- (2) In or near any theater, hall, school, college, church, hotel, or other public building.
- (3) In or near any private habitation.
- (4) In, on, or near any aircraft, railway passenger train, car, cable road, cable car, or vessel engaged in carrying passengers for hire.
- (5) In, on, or near any other public place ordinarily passed by human beings.

(b) An offense under subdivision (a) is punishable by imprisonment in the state prison for a period of two, four, or six years.

**Comment.** Section 18715 continues former Section 12303.2 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18720. Possession of materials with intent to create destructive device or explosive**

18720. Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device or any explosive without first obtaining a valid permit to make that destructive device or explosive, is guilty of a felony, and is punishable by imprisonment in the state prison for two, three, or four years.

**Comment.** Section 18720 continues former Section 12312 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18725. Destructive device or explosive on vessel, aircraft, or other vehicle**

18725. Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years:

(a) Carries any destructive device or any explosive on any vessel, aircraft, car, or other vehicle that transports passengers for hire.

(b) While on board any vessel, aircraft, car, or other vehicle that transports passengers for hire, places or carries any destructive device or any explosive in any hand baggage, roll, or other container.

(c) Places any destructive device or any explosive in any baggage that is later checked with any common carrier.

**Comment.** Section 18725 continues former Section 12303.1 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18730. Sale or transportation of destructive device other than fixed ammunition greater than .60 caliber**

18730. Except as provided by this chapter, any person, firm, or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years.

**Comment.** Section 18730 continues former Section 12303.6 without substantive change. See Section 16460 (“destructive device”).

**§ 18735. Sale, possession, or transport of fixed ammunition greater than .60 caliber**

18735. (a) Except as provided by this chapter, any person, firm, or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any fixed ammunition of a caliber greater than .60 caliber is guilty of a public offense.

(b) Upon conviction of an offense under subdivision (a), a person, firm, or corporation shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine not to exceed one thousand dollars (\$1,000), or by both this fine and imprisonment.

(c) A second or subsequent conviction shall be punished by imprisonment in the county jail for a term not to exceed one year, or by imprisonment in the state

prison, or by a fine not to exceed three thousand dollars (\$3,000), or by both this fine and imprisonment.

**Comment.** Section 18735 continues former Section 12304 without substantive change.

A conviction under former Section 12304 counts as a prior conviction in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

**§ 18740. Use or attempted use of destructive device or explosive with intent to cause fear or harm**

18740. Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

**Comment.** Section 18740 continues former Section 12303.3 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18745. Use or attempted use of destructive device or explosive with intent to commit murder**

18745. Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for life with the possibility of parole.

**Comment.** Section 18745 continues former Section 12308 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18750. Willful and malicious use of destructive device or explosive resulting in bodily injury**

18750. Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years.

**Comment.** Section 18750 continues former Section 12309 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18755. Willful and malicious use of destructive device or explosive resulting in death, mayhem, or great bodily injury**

18755. (a) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes the death of any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes mayhem or great bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life.

**Comment.** Section 18755 continues former Section 12310 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

**§ 18780. No probation or suspension of sentence**

18780. A person convicted of a violation of this chapter shall not be granted probation, and the execution of the sentence imposed upon that person shall not be suspended by the court.

**Comment.** Section 18780 continues former Section 12311 without substantive change.

## Article 2. Exemptions

**§ 18800. Use of destructive device or explosive by law enforcement, military, or firefighter**

18800. (a) Nothing in this chapter prohibits the sale to, purchase by, or possession, transportation, storage, or use of, a destructive device or explosive by any of the following:

(1) Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of employment.

(2) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of employment.

(b) Nothing in this chapter prohibits the sale to, or the purchase, possession, transportation, storage, or use by any person who is a regularly employed and paid officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, while on duty and acting within the scope and course of employment, of any equipment used by that department or agency in the course of fire suppression.

**Comment.** Section 18800 continues former Section 12302 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

## Article 3. Permit and Inspection

**§ 18900. Permit for destructive device**

18900. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess or transport any destructive device. No permit shall be issued to any person who meets any of the following criteria:

(1) Has been convicted of any felony.

(2) Is addicted to the use of any narcotic drug.

(3) Is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(c) An application for a permit shall comply with all of the following:

(1) It shall be filed in writing.

(2) It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.

(3) It shall state the name, business in which engaged, business address, and a full description of the use to which the destructive devices are to be put.

(d) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

**Comment.** Subdivision (a) of Section 18900 continues former Section 12305(a) without substantive change.

Subdivision (b) continues former Section 12305(b) without substantive change.

Subdivision (c) continues former Section 12305(c) without substantive change.

Subdivision (d) continues former Section 12305(d) without substantive change.

See Section 16460 (“destructive device”).

#### **§ 18905. Permit fees and renewal process**

18905. (a) Each applicant for a permit under this article shall pay at the time of filing the application a fee not to exceed the application processing costs of the Department of Justice.

(b) A permit granted under this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice.

(c) After the department establishes fees sufficient in amount to cover processing costs, the amount of the fees shall only increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department.

**Comment.** Section 18905 continues former Section 12305(e) without substantive change.

#### **§ 18910. Inspection by Department of Justice**

18910. (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued under this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of destructive devices.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

**Comment.** Section 18910 continues former Section 12305(f)-(g) without substantive change.

See Section 16460 (“destructive device”).

## Article 4. Destructive Device Constituting Nuisance

### § 19000. Destructive device constituting nuisance

19000. (a) Possession of any destructive device in violation of this chapter is a public nuisance.

(b) The Attorney General or district attorney of any city, county, or city and county may bring an action in the superior court to enjoin the possession of any destructive device.

(c) Any destructive device found to be in violation of this chapter shall be surrendered to the Department of Justice, or to the sheriff or chief of police, if the sheriff or chief of police has elected to perform the services required by this section. The department, sheriff, or chief of police shall destroy the destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of the destructive device is necessary to serve the ends of justice.

**Comment.** Section 19000 continues former Section 12307 without substantive change. See Section 16460 (“destructive device”).

## CHAPTER 2. EXPLOSIVE SUBSTANCE OTHER THAN FIXED AMMUNITION

### § 19100. Carrying concealed explosive substance other than fixed ammunition

19100. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who carries concealed upon the person any explosive substance, other than fixed ammunition, is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** Section 19100 continues former Section 12020(a)(3) 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 also Sections 17800 (distinct and separate offense), 19190 (concealed explosive substance constituting nuisance).

### § 19190. Concealed explosive substance constituting nuisance

19190. The unlawful concealed carrying upon the person of any explosive substance other than fixed ammunition, as provided in Section 19100, is a nuisance and is subject to Sections 18000 and 18005.

**Comment.** With respect to an explosive substance other than fixed ammunition, Section 19190 continues former Section 12028(a) without substantive change.

### CHAPTER 3. HANDGRENADES

#### **§ 19200. Prohibition on manufacture, import, sale, gift, loan, or possession of metal military practice handgrenade or metal replica handgrenade**

19200. (a) Except as provided in Section 19205 and Chapter 1 (commencing with Section 17700) of Division 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 metal military practice handgrenade or metal replica handgrenade is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

(b) Notwithstanding subdivision (a), a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

**Comment.** With respect to a metal military practice handgrenade or metal replica handgrenade, subdivision (a) of Section 19200 continues former Section 12020(a)(1) without substantive change.

Subdivision (b) continues the first sentence of the second paragraph of former Section 12020(a)(4) 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), 19205 (toy or permanently inoperative handgrenade).

See also Sections 17800 (distinct and separate offense), 19290 (metal military practice handgrenade or metal replica handgrenade constituting nuisance).

#### **§ 19205. Toy or permanently inoperative handgrenade**

19205. Section 19200 does not apply to any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance, or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

**Comment.** Section 19205 continues former Section 12020(b)(15) without substantive change.

For additional circumstances in which Section 19200 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

#### **§ 19290. Metal military practice handgrenade or metal replica handgrenade constituting nuisance**

19290. Except as provided in Section 19205 and in Chapter 1 (commencing with Section 17700) of Division 2, any metal military practice handgrenade or metal replica handgrenade is a nuisance and is subject to Section 18010.

**Comment.** With respect to a metal military practice handgrenade or metal replica handgrenade, Section 19290 continues the first part of the first sentence of former Section 12029 without substantive change.

## DIVISION 6. LESS LETHAL WEAPONS

### **§ 19400. Less lethal weapon or ammunition for official use by peace officer or custodial officer**

19400. A person who is a peace officer or a custodial officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, may, if authorized by and under the terms and conditions as are specified by the person's employing agency, purchase, possess, or transport any less lethal weapon or ammunition for any less lethal weapon, for official use in the discharge of the person's duties.

**Comment.** Section 19400 continues former Section 12600 without substantive change. See Section 16780 ("less lethal weapon").

### **§ 19405. Punishment for sale of less lethal weapon to person under age 18**

19405. Any person who sells a less lethal weapon to a person under the age of 18 years is guilty of a misdemeanor, punishable by imprisonment in the county jail for up to six months or by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

**Comment.** Section 19405 continues former Section 12655 without substantive change. See Section 16780 ("less lethal weapon").

## TITLE 3. WEAPONS AND DEVICES OTHER THAN FIREARMS

### DIVISION 1. BB DEVICES

#### **§ 19910. Sale of BB device to minor**

19910. Every person who sells any BB device to a minor is guilty of a misdemeanor.

**Comment.** Section 19910 continues former Section 12551 without substantive change. See Section 16250 ("BB device").

#### **§ 19915. Furnishing BB device to minor without parental permission**

19915. (a) Every person who furnishes any BB device to any minor, without the express or implied permission of a parent or legal guardian of the minor, is guilty of a misdemeanor.

(b) As used in this section, "furnishes" means either of the following:

- (1) A loan.
- (2) A transfer that does not involve a sale.

**Comment.** Section 19915 continues former Section 12552 without substantive change. See Section 16250 ("BB device").

## DIVISION 2. BLOWGUNS

### § 20010 . Unlawful acts relating to blowguns or blowgun ammunition

20010. Any person who knowingly manufactures, sells, offers for sale, possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a misdemeanor.

**Comment.** Section 20010 continues former Section 12582 without substantive change.

For circumstances in which this section is inapplicable, see Section 20015 (use of blowgun or blowgun ammunition by veterinarian or animal control professional).

See Sections 16270 (“blowgun”), 16280 (“blowgun ammunition”).

### § 20015. Use of blowgun or blowgun ammunition by veterinarian or animal control professional

20015. Nothing in this division shall prohibit the sale to, purchase by, possession of, or use of any blowgun or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, humane officers whose names are maintained in the county record of humane officers pursuant to Section 14502 of the Corporations Code, or veterinarians in the course and scope of their business in order to administer medicine to animals.

**Comment.** Section 20015 continues former Section 12583 without substantive change.

See Sections 16270 (“blowgun”), 16280 (“blowgun ammunition”).

## DIVISION 3. BOOBYTRAP

### § 20110. Boobytrap

20110. (a) Except as provided in Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, any person who assembles, maintains, places, or causes to be placed a boobytrap device is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years.

(b) Possession of any device with the intent to use the device as a boobytrap is punishable by imprisonment in state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

**Comment.** Section 20110 continues subdivisions (a) and (b) of former Section 12355 without substantive change.

See Section 16310 (“boobytrap”).

## DIVISION 4. IMITATION FIREARMS

### § 20150. Consequences of making imitation firearm or specified device look more like firearm

20150. (a) Any person who changes, alters, removes, or obliterates any coloration or markings that are required by any applicable state or federal law or

regulation, for any imitation firearm, or any device described in subdivision (b) of Section 16700, in a way that makes the imitation firearm or device look more like a firearm, is guilty of a misdemeanor.

(b) This section does not apply to a manufacturer, importer, or distributor of imitation firearms.

(c) This section does not apply to lawful use in theatrical productions, including motion pictures, television, and stage productions.

**Comment.** Section 20150 continues former Section 12553(a) without substantive change. See Sections 16520 (“firearm”), 16700 (“imitation firearm”).

**§ 20155. Failure to comply with federal law or regulation on marking of toy, look-alike, or imitation firearm**

20155. Any manufacturer, importer, or distributor of imitation firearms that fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike, or imitation firearm, as defined by federal law or regulation, is guilty of a misdemeanor.

**Comment.** Section 20155 continues former Section 12553(b) without substantive change. See Section 16700 (“imitation firearm”).

**§ 20160. Advisory requirement for imitation firearm**

20160. (a) Any imitation firearm manufactured after July 1, 2005, shall, at the time of offer for sale in this state, be accompanied by a conspicuous advisory in writing as part of the packaging, but not necessarily affixed to the imitation firearm, to the effect that the product may be mistaken for a firearm by law enforcement officers or others, that altering the coloration or markings required by state or federal law or regulations so as to make the product look more like a firearm is dangerous, and may be a crime, and that brandishing or displaying the product in public may cause confusion and may be a crime.

(b) Any manufacturer, importer, or distributor that fails to comply with this advisory for any imitation firearm manufactured after July 1, 2005, shall be liable for a civil fine for each action brought by a city attorney or district attorney of not more than one thousand dollars (\$1,000) for the first action, five thousand dollars (\$5,000) for the second action, and ten thousand dollars (\$10,000) for the third action and each subsequent action.

**Comment.** Section 20160 continues former Section 12554 without substantive change.

In applying subdivision (b), an action under former Section 12554 counts as a prior action under this section. See Section 16010 & Comment (continuation of existing law); see also Section 16015 (determining existence of prior conviction).

See Sections 16520 (“firearm”), 16700 (“imitation firearm”).

**§ 20165. Unlawful commercial activities relating to imitation firearms**

20165. (a) Any person who, for commercial purposes, purchases, sells, manufactures, ships, transports, distributes, or receives, by mail order or in any other manner, an imitation firearm, except as authorized by this section, is liable

for a civil fine in an action brought by the city attorney or the district attorney of not more than ten thousand dollars (\$10,000) for each violation.

(b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt, by mail or in any other manner, of an imitation firearm is authorized if the device is manufactured, purchased, sold, shipped, transported, distributed, or received for any of the following purposes:

(1) Solely for export in interstate or foreign commerce.

(2) Solely for lawful use in theatrical productions, including motion picture, television, and stage productions.

(3) For use in a certified or regulated sporting event or competition.

(4) For use in military or civil defense activities, or ceremonial activities.

(5) For public displays authorized by public or private schools.

**Comment.** Section 20165 continues former Section 12555(a)-(b) without substantive change.

See Section 16700 (“imitation firearm”), which includes special guidance for interpreting that term in the context of this section.

#### **§ 20170. Display of imitation firearm in public place**

20170. (a) No person may openly display or expose any imitation firearm in a public place.

(b) As used in this section, “public place” means an area open to the public and includes any of the following:

(1) A street.

(2) A sidewalk.

(3) A bridge.

(4) An alley.

(5) A plaza.

(6) A park.

(7) A driveway.

(8) A front yard.

(9) A parking lot.

(10) An automobile, whether moving or not.

(11) A building open to the general public, including one that serves food or drink, or provides entertainment.

(12) A doorway or entrance to a building or dwelling.

(13) A public school.

(14) A public or private college or university.

**Comment.** Subdivision (a) of Section 20170 continues former Section 12556(a) without substantive change.

For circumstances in which this section is inapplicable, see Section 20175 (exemptions). For consequences of violating this section, see Section 20180 (punishment).

Subdivision (b) continues former Section 12556(e) without substantive change.

See Section 16700 (“imitation firearm”).

#### **§ 20175. Exemptions**

20175. Section 20170 does not apply in any of the following circumstances:

(a) The imitation firearm is packaged or concealed so that it is not subject to public viewing.

(b) The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm.

(c) The imitation firearm is used in a theatrical production, a motion picture, video, television, or stage production.

(d) The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.

(e) The imitation firearm is used in conjunction with lawful hunting, or a lawful pest control activity.

(f) The imitation firearm is used or possessed at a certified or regulated public or private shooting range.

(g) The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from a local or state government.

(h) The imitation firearm is used in a military, civil defense, or civic activity, including a flag ceremony, color guard, parade, award presentation, historical reenactment, or memorial.

(i) The imitation firearm is used for a public display authorized by a public or private school or a display that is part of a museum collection.

(j) The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from a local or state government.

(k) The imitation firearm is displayed on a wall plaque or in a presentation case.

(l) The imitation firearm is used in an area where the discharge of a firearm is lawful.

(m) The entire exterior surface of the imitation firearm is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or the entire device is constructed of transparent or translucent material that permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

**Comment.** Section 20175 continues former Section 12556(d) without substantive change. See Section 16700 ("imitation firearm").

#### § 20180. Punishment

20180. (a) Except as provided in subdivision (b), violation of Section 20170 is an infraction punishable by a fine of one hundred dollars (\$100) for the first offense, and three hundred dollars (\$300) for a second offense.

(b) A third or subsequent violation of Section 20170 is punishable as a misdemeanor.

(c) Nothing in Sections 20170, 20175, or this section shall be construed to preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

**Comment.** Subdivision (a) of Section 20180 continues former Section 12556(b) without substantive change.

Subdivision (b) continues former Section 12556(c) without substantive change.

Subdivision (c) continues former Section 12556 (f) without substantive change.

A violation of the predecessor of Section 20170 (former Section 12556(a)) counts as a prior offense in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

## DIVISION 5. KNIVES AND SIMILAR WEAPONS

### CHAPTER 1. GENERAL PROVISIONS

#### § 20200. Circumstances in which knife is not deemed “concealed”

20200. A knife carried in a sheath that is worn openly suspended from the waist of the wearer is not concealed within the meaning of Section 16140, 16340, 17350, or 21310.

**Comment.** Section 20200 continues former Section 12020(d) without substantive change.

### CHAPTER 2. DISGUISED OR MISLEADING APPEARANCE

#### Article 1. Air Gauge Knife

#### § 20310. Prohibition on manufacture, import, sale, gift, loan, or possession of air gauge knife

20310. 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 air gauge knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to an air gauge knife, Section 20310 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 16140 (“air gauge knife”). See also Sections 17800 (distinct and separate offense), 20390 (air gauge knife constituting nuisance).

#### § 20390. Air gauge knife constituting nuisance

20390. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any air gauge knife is a nuisance and is subject to Section 18010.

**Comment.** With respect to an air gauge knife, Section 20390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16140 (“air gauge knife”).

## Article 2. Belt Buckle Knife

### **§ 20410. Prohibition on manufacture, import, sale, gift, loan, or possession of belt buckle knife**

20410. 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 belt buckle knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a belt buckle knife, Section 20410 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 16260 (“belt buckle knife”). See also Sections 17800 (distinct and separate offense), 20490 (belt buckle knife constituting nuisance).

### **§ 20490. Belt buckle knife constituting nuisance**

20490. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any belt buckle knife is a nuisance and is subject to Section 18010.

**Comment.** With respect to a belt buckle knife, Section 20490 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16260 (“belt buckle knife”).

## Article 3. Cane Sword

### **§ 20510. Prohibition on manufacture, import, sale, gift, loan, or possession of cane sword**

20510. 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 cane sword is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a cane sword, Section 20510 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 16340 (“cane sword”). See also Sections 17800 (distinct and separate offense), 20590 (cane sword constituting nuisance).

### **§ 20590. Cane sword constituting nuisance**

20590. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any cane sword is a nuisance and is subject to Section 18010.

**Comment.** With respect to a cane sword, Section 20590 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16340 (“cane sword”).

#### Article 4. Lipstick Case Knife

##### **§ 20610. Prohibition on manufacture, import, sale, gift, loan, or possession of lipstick case knife**

20610. 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 lipstick case knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a lipstick case knife, Section 20610 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 16830 (“lipstick case knife”). See also Sections 17800 (distinct and separate offense), 20690 (lipstick case knife constituting nuisance).

##### **§ 20690. Lipstick case knife constituting nuisance**

20690. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any lipstick case knife is a nuisance and is subject to Section 18010.

**Comment.** With respect to a lipstick case knife, Section 20690 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16830 (“lipstick case knife”).

#### Article 5. Shobi-zue

##### **§ 20710. Prohibition on manufacture, import, sale, gift, loan, or possession of shobi-zue**

20710. 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 shobi-zue is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a shobi-zue, Section 20710 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 17160 (“shobi-zue”). See also Sections 17800 (distinct and separate offense), 20790 (shobi-zue constituting nuisance).

##### **§ 20790. Shobi-zue constituting nuisance**

20790. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any shobi-zue is a nuisance and is subject to Section 18010.

**Comment.** With respect to a shobi-zue, Section 20790 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17160 (“shobi-zue”).

## Article 6. Undetectable Knife

### § 20810. Restrictions relating to undetectable knife

20810. (a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, or who knowingly exports out of this state for commercial, dealer, wholesaler, or distributor sale, or who keeps for commercial sale, or offers or exposes for commercial, dealer, wholesaler, or distributor sale, any undetectable knife is guilty of a misdemeanor.

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

**Comment.** Subdivision (a) of Section 20810 continues the first sentence of former Section 12001.1(a) without change.

Subdivision (b) continues former Section 12001.1(b) without change.

For circumstances in which this section is inapplicable, see Sections 20815 (undetectable knife for law enforcement or military entity), 20820 (undetectable knife for historical society, museum, or institutional collection open to public).

See Section 17290 (“undetectable knife”).

### § 20815. Undetectable knife for law enforcement or military entity

20815. Section 20810 does not apply to the manufacture or importation of any undetectable knife for sale to a law enforcement or military entity with a valid agency, department, or unit purchase order, nor does Section 20810 apply to the subsequent sale of any undetectable knife to a law enforcement or military entity.

**Comment.** Section 20815 continues former Section 12001.1(c) without substantive change.

See Section 17290 (“undetectable knife”).

### § 20820. Undetectable knife for historical society, museum, or institutional collection open to public

20820. Section 20810 does not apply to the manufacture or importation of any undetectable knife for sale to a federal, state, or local historical society, museum, or institutional collection that is open to the public, provided that the undetectable knife is properly housed and secured from unauthorized handling, nor does Section 20810 apply to the subsequent sale of the knife to any of these entities.

**Comment.** Section 20820 continues former Section 12001.1(d) without substantive change.

See Section 17290 (“undetectable knife”).

## Article 7. Writing Pen Knife

### **§ 20910. Prohibition on manufacture, import, sale, gift, loan, or possession of writing pen knife**

20910. 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 writing pen knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a writing pen knife, Section 20910 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 17350 (“writing pen knife”). See also Sections 17800 (distinct and separate offense), 20990 (writing pen knife constituting nuisance).

### **§ 20990. Writing pen knife constituting nuisance**

20990. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any writing pen knife is a nuisance and is subject to Section 18010.

**Comment.** With respect to a writing pen knife, Section 20990 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17350 (“writing pen knife”).

## CHAPTER 3. BALLISTIC KNIFE

### **§ 21110. Prohibition on manufacture, import, sale, gift, loan, or possession of ballistic knife**

21110. 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 ballistic knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a ballistic knife, Section 21110 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 16220 (“ballistic knife”). See also Sections 17800 (distinct and separate offense), 21190 (ballistic knife constituting nuisance).

### **§ 21190. Ballistic knife constituting nuisance**

21190. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any ballistic knife is a nuisance and is subject to Section 18010.

**Comment.** With respect to a ballistic knife, Section 21190 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16220 (“ballistic knife”).

## CHAPTER 4. DIRK OR DAGGER

### § 21310. Carrying concealed dirk or dagger

21310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who carries concealed upon the person any dirk or dagger is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** Section 21310 continues the first paragraph of former Section 12020(a)(4) 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), 20200 (circumstances in which knife is not deemed “concealed”).

See Section 16470 (“dirk” or “dagger”). See also Sections 17800 (distinct and separate offense), 21390 (concealed dirk or dagger constituting nuisance).

### § 21390. Concealed dirk or dagger constituting nuisance

21390. The unlawful concealed carrying upon the person of any dirk or dagger, as provided in Section 21310, is a nuisance and is subject to Sections 18000 and 18005.

**Comment.** With respect to a dirk or dagger, Section 21390 continues former Section 12028(a) without substantive change.

See Section 16470 (“dirk” or “dagger”).

## CHAPTER 5. SWITCHBLADE KNIFE

### § 21510. Restrictions relating to switchblade knife

21510. Every person who does any of the following with a switchblade knife having a blade two or more inches in length is guilty of a misdemeanor:

(a) Possesses the knife in the passenger’s or driver’s area of any motor vehicle in any public place or place open to the public.

(b) Carries the knife upon the person.

(c) Sells, offers for sale, exposes for sale, loans, transfers, or gives the knife to any other person.

**Comment.** Section 21510 continues the first paragraph of former Section 653k without substantive change.

See Sections 16965 (“passenger’s or driver’s area”), 17235 (“switchblade knife”).

### § 21590. Switchblade knife constituting nuisance

21590. The unlawful possession or carrying of any switchblade knife, as provided in Section 21510, is a nuisance and is subject to Sections 18000 and 18005.

**Comment.** With respect to a switchblade knife, Section 21590 continues former Section 12028(a) without substantive change.

See Section 17235 (“switchblade knife”).

## DIVISION 6. KNUCKLES

### CHAPTER 1. HARD PLASTIC KNUCKLES OR HARD WOODEN KNUCKLES

#### § 21710. Restrictions relating to hard plastic knuckles and hard wooden knuckles

21710. Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any hard plastic knuckles or hard wooden knuckles is guilty of a misdemeanor.

**Comment.** Section 21710 continues the first sentence of former Section 12020.1 without substantive change.

See Section 16680 (“hard plastic knuckles” or “hard wooden knuckles”).

### CHAPTER 2. METAL KNUCKLES

#### § 21810. Prohibition on manufacture, import, sale, gift, loan, or possession of metal knuckles

21810. 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 metal knuckles is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to metal knuckles, Section 21810 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 16920 (“metal knuckles”). See also Sections 17800 (distinct and separate offense), 21890 (metal knuckles constituting nuisance).

#### § 21890. Metal knuckles constituting nuisance

21890. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, metal knuckles are a nuisance and are subject to Section 18010.

**Comment.** With respect to metal knuckles, Section 21890 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16920 (“metal knuckles”).

## DIVISION 7. NUNCHAKU

#### § 22010. Prohibition on manufacture, import, sale, gift, loan, or possession of nunchaku

22010. Except as provided in Section 22015 and 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 nunchaku is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a nunchaku, Section 22010 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), 22015 (nunchaku for school teaching arts of self-defense).

See Section 16940 (“nunchaku”). See also Sections 17800 (distinct and separate offense), 22090 (nunchaku constituting nuisance).

#### **§ 22015. Nunchaku for school teaching arts of self-defense**

22015. Section 22010 does not apply to either of the following:

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

(b) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school that holds a regulatory or business license and teaches the arts of self-defense.

**Comment.** Subdivision (a) of Section 22015 continues former Section 12020(b)(3) without substantive change.

Subdivision (b) continues former Section 12020(b)(4) without substantive change.

For additional circumstances in which Section 16910 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16940 (“nunchaku”).

#### **§ 22090. Nunchaku constituting nuisance**

22090. Except as provided in Section 22015 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any nunchaku is a nuisance and is subject to Section 18010.

**Comment.** With respect to a nunchaku, Section 22090 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16940 (“nunchaku”).

### **DIVISION 8. SAPS AND SIMILAR WEAPONS**

#### **§ 22210. Prohibition relating to leaded cane or to instrument or weapon of kind commonly known as billy, blackjack, sandbag, sandclub, sap, or slungshot**

22210. Except as provided in Section 22215 and 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 leaded cane, or any instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a leaded cane or “any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag,” Section 22210 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 16760 (“leaded cane”). See also Sections 17800 (distinct and separate offense), 22290 (nuisance created by leaded cane or by instrument or weapon of kind commonly known as billy, blackjack, sandbag, sandclub, sap, or slungshot).

**§ 22215. Exemption relating to wooden clubs or batons for special police officers or uniformed security guards**

22215. Section 22210 does not apply to the manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 22295 by entities that are in the business of selling wooden clubs or batons to special police officers and uniformed security guards when engaging in transactions with those persons.

**Comment.** Section 22215 continues former Section 12020(b)(14) without substantive change.

For additional circumstances in which Section 22210 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

**§ 22290. Nuisance created by leaded cane or by instrument or weapon of kind commonly known as billy, blackjack, sandbag, sandclub, sap, or slungshot**

22290. Except as provided in Section 22215 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any leaded cane or any instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot is a nuisance and is subject to Section 18010.

**Comment.** With respect to a leaded cane or “any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag,” Section 22290 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16760 (“leaded cane”).

**§ 22295. Wooden club or baton for law enforcement purposes**

22295. (a) Nothing in any provision listed in Section 16580 prohibits any police officer, special police officer, peace officer, or law enforcement officer from carrying any wooden club or baton.

(b) Nothing in any provision listed in Section 16580 prohibits a uniformed security guard, regularly employed and compensated by a person engaged in any lawful business, while actually employed and engaged in protecting and preserving property or life within the scope of employment, from carrying any wooden club or baton if the uniformed security guard has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

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

(d) Any uniformed security guard who successfully completes a course of instruction under this section is entitled to receive a permit to carry and use a club or baton within the scope of employment, issued by the Department of Consumer Affairs. The department may authorize a certified training institution to issue permits to carry and use a club or baton. A fee in the amount provided by law shall be charged by the Department of Consumer Affairs to offset the costs incurred by the department in course certification, quality control activities associated with the course, and issuance of the permit.

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

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

(g) Nothing in any provision listed in Section 16580 prohibits an animal control officer, as described in Section 830.9, or an illegal dumping enforcement officer, as described in Section 830.7, from carrying any wooden club or baton if the animal control officer or illegal dumping enforcement officer has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

**Comment.** With respect to a wooden club or baton, subdivision (a) of Section 22295 continues former Section 12002(a) without substantive change. The remainder of former Section 12002(a) is continued in Section 17515 without substantive change.

Subdivisions (b)-(g) continue former Section 12002(b)-(g) without substantive change.

## DIVISION 9. SHURIKEN

### § 22410. Prohibition on manufacture, import, sale, gift, loan, or possession of shuriken

22410. 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 shuriken is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a shuriken, Section 22410 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 17200 (“shuriken”). See also Sections 17800 (distinct and separate offense), 22490 (shuriken constituting nuisance).

**§ 22490. Shuriken constituting nuisance**

22490. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any shuriken is a nuisance and is subject to Section 18010.

**Comment.** With respect to a shuriken, Section 22490 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17200 (“shuriken”).

## DIVISION 10. STUN GUN

**§ 22610. Unlawful acts relating to stun gun**

22610. Notwithstanding any other provision of law, any person may purchase, possess, or use a stun gun, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, the State of California, or any other state, government, or country, or convicted of misuse of a stun gun under Section 244.5, shall purchase, possess, or use any stun gun.

(b) No person addicted to any narcotic drug shall purchase, possess, or use a stun gun.

(c)(1) No person shall sell or furnish any stun gun to a minor unless the minor is at least 16 years of age and has the written consent of the minor’s parent or legal guardian.

(2) Violation of this subdivision shall be a public offense punishable by a fifty dollar (\$50) fine for the first offense. Any subsequent violation of this subdivision is a misdemeanor.

(d) No minor shall possess any stun gun unless the minor is at least 16 years of age and has the written consent of the minor’s parent or legal guardian.

**Comment.** Section 22610 continues former Section 12651 without substantive change.

A violation of the predecessor of subdivision (c) (former Section 12651(c)) counts as a prior conviction in determining the appropriate punishment for a violation of that subdivision. See Section 16015 (determining existence of prior conviction).

See Section 17230 (“stun gun”). See also Section 22620 (violation punishable as misdemeanor).

**§ 22615. Serial number and name of manufacturer**

22615. Each stun gun sold shall contain both of the following:

(a) The name of the manufacturer stamped on the stun gun.

(b) The serial number applied by the manufacturer.

**Comment.** Section 22615 continues former Section 12652 without substantive change.

See Section 17230 (“stun gun”). See also Section 22620 (violation punishable as misdemeanor).

**§ 22620. Violation punishable as misdemeanor**

22620. Unless otherwise specified, any violation of this division is a misdemeanor.

**Comment.** Section 22620 continues former Section 12653 without substantive change.

**§ 22625. Instruction booklet for stun gun**

22625. (a) Each stun gun sold in this state shall be accompanied by an instruction booklet.

(b) Violation of this section shall be a public offense punishable by a fifty dollar (\$50) fine for each weapon sold without the booklet.

**Comment.** Section 22625 continues former Section 12654 without substantive change. See Section 17230 (“stun gun”).

## DIVISION 11. TEAR GAS AND TEAR GAS WEAPONS

### CHAPTER 1. GENERAL PROVISIONS

**§ 22810. Lawful and unlawful acts relating to tear gas and tear gas weapons**

22810. Notwithstanding any other provision of law, any person may purchase, possess, or use tear gas or any tear gas weapon for the projection or release of tear gas if the tear gas or tear gas weapon is used solely for self-defense purposes, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, the State of California, or any other state, government, or country, or convicted of misuse of tear gas under subdivision (g), shall purchase, possess, or use tear gas or any tear gas weapon.

(b) No person addicted to any narcotic drug shall purchase, possess, or use tear gas or any tear gas weapon.

(c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(d) No minor shall purchase, possess, or use tear gas or any tear gas weapon.

(e)(1) No person shall purchase, possess, or use any tear gas weapon that expels a projectile, or that expels the tear gas by any method other than an aerosol spray, or that contains more than 2.5 ounces net weight of aerosol spray.

(2) Every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a label that states: “WARNING: The use of this substance or device for any purpose other than self-defense is a crime under the law. The contents are dangerous — use with care.”

(3) After January 1, 1984, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a

label that discloses the date on which the useful life of the tear gas weapon expires.

(4) Every tear gas container and tear gas weapon that may be lawfully purchased pursuant to this section shall be accompanied at the time of purchase by printed instructions for use.

(f) Effective March 1, 1994, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall be accompanied by an insert including directions for use, first aid information, safety and storage information, and explanation of the legal ramifications of improper use of the tear gas container or tear gas product.

(g)(1) Except as provided in paragraph (2), any person who uses tear gas or any tear gas weapon except in self-defense is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment.

(2) If the use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the performance of official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or three years or by a fine of one thousand dollars (\$1,000), or by both the fine and imprisonment.

**Comment.** Section 22810 continues former Section 12403.7 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

#### § 22815. Minor age 16 or older

22815. (a) Notwithstanding subdivision (d) of Section 22810, a minor who has attained the age of 16 years may purchase and possess tear gas or a tear gas weapon pursuant to this division if the minor is accompanied by a parent or guardian, or has the written consent of a parent or guardian.

(b) Notwithstanding subdivision (c) of Section 22810, a person may sell or furnish tear gas or a tear gas weapon to a minor who has attained the age of 16 years and who is accompanied by a parent or guardian, or who presents a statement of consent signed by the minor’s parent or guardian.

(c) Any civil liability of a minor arising out of the minor’s use of tear gas or a tear gas weapon other than for self-defense is imposed upon the person, parent, or guardian who signed the statement of consent specified in subdivision (b). That person, parent, or guardian shall be jointly and severally liable with the minor for any damages proximately resulting from the negligent or wrongful act or omission of the minor in the use of the tear gas or a tear gas weapon.

**Comment.** Section 22815 continues former Section 12403.8 without substantive change.

An erroneous cross-reference to former Section 12403.7(a)(4) has been replaced with a cross-reference to Section 22810(d), which continues the substance of former Section 12403.7(d). An erroneous cross-reference to former Section 12403.7(a)(3) has been replaced with a cross-reference to Section 22810(c), which continues the substance of former Section 12403.7(c).

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22820. Peace officer trained in use of tear gas**

22820. Nothing in this division prohibits any person who is a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from purchasing, possessing, transporting, or using any tear gas or tear gas weapon if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas.

**Comment.** Section 22820 continues former Section 12403 without substantive change.  
See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22825. Custodial officer of county**

22825. A custodial officer of a county may carry a tear gas weapon pursuant to Section 22820 only while on duty. A custodial officer of a county may carry a tear gas weapon while off duty only in accordance with all other laws.

**Comment.** Section 22825 continues former Section 12403.9 without substantive change.  
See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22830. Member of military or federal law enforcement officer**

22830. Nothing in this division prohibits any member of the military or naval forces of this state or of the United States or any federal law enforcement officer from purchasing, possessing, or transporting any tear gas or tear gas weapon for official use in the discharge of duties.

**Comment.** Section 22830 continues former Section 12403.1 without substantive change.  
See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22835. Private investigator or private patrol operator or employee**

22835. Notwithstanding any other provision of law, a person holding a license as a private investigator pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, or as a private patrol operator pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, or a uniformed patrolperson employee of a private patrol operator, may purchase, possess, or transport any tear gas weapon, if it is used solely for defensive purposes in the course of the activity for which the license was issued and if the person has satisfactorily completed a course of instruction approved by the Department of Consumer Affairs in the use of tear gas.

**Comment.** Section 22835 continues former Section 12403.5 without substantive change.

An erroneous cross-reference to “Chapter 11 (commencing with Section 7500), Division 3 of the Business and Professions Code” has been corrected by replacing it with cross-references to “Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code” and “Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code.”

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22840. Tear gas or tear gas weapons in prison, jail, or similar institution**

22840. Nothing in this division authorizes the possession of tear gas or a tear gas weapon in any institution described in Section 4574, or within the grounds belonging or adjacent to any institution described in Section 4574, except where authorized by the person in charge of the institution.

**Comment.** Section 22840 continues former Section 12404 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

CHAPTER 2. UNLAWFUL POSSESSION, SALE, OR TRANSPORTATION

**§ 22900. Unlawful sale, possession, or transportation of tear gas or tear gas weapon**

22900. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this division, is guilty of a public offense and upon conviction thereof shall be punishable by imprisonment in the county jail for not exceeding one year or by a fine not to exceed two thousand dollars (\$2,000), or by both.

**Comment.** Section 22900 continues former Section 12420 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22905. Affixation of serial number and name of manufacturer**

22905. Each tear gas weapon sold, transported, or possessed under the authority of this division shall bear the name of the manufacturer and a serial number applied by the manufacturer.

**Comment.** Section 22905 continues former Section 12421 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 22910. Obliteration of serial number, name of manufacturer, or other identification mark**

22910. (a) Any person who changes, alters, removes, or obliterates the name of the manufacturer, the serial number, or any other mark of identification on any tear gas weapon is guilty of a public offense and, upon conviction, shall be punished by imprisonment in the state prison or by a fine of not more than two thousand dollars (\$2,000) or by both.

(b) Possession of any such weapon upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same.

**Comment.** Subdivision (a) of Section 22910 continues the first paragraph of former Section 12422 without substantive change.

Subdivision (b) continues the second paragraph of former Section 12422 without change. Continuation of this material is not intended to reflect any determination regarding its constitutionality. See Section 16025. For a case discussing the constitutionality of a similar provision, see *In re Christopher K.*, 91 Cal. App. 4th 853, 110 Cal. Rptr. 914 (2001).

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

## CHAPTER 3. PERMITS

### § 23000. Permit issued by Department of Justice

23000. The Department of Justice may issue a permit for the possession and transportation of tear gas or a tear gas weapon that is not intended or certified for personal self-defense purposes, upon proof that good cause exists for issuance of the permit to the applicant. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas or a tear gas weapon in any place that is accurately and completely described in the permit application.

**Comment.** Section 23000 continues former Section 12423 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

### § 23005. Permit application

23005. (a) An application for a permit shall satisfy all of the following requirements:

(1) It shall be filed in writing.

(2) It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.

(3) It shall state the applicant’s name, business in which engaged, business address, and a full description of the place or vehicle in which the tear gas or tear gas weapon is to be transported, kept, installed, or maintained.

(b) If the tear gas or tear gas weapon is to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

(c) Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

**Comment.** Section 23005 continues the first three paragraphs of former Section 12424 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

### § 23010. Permit fees and renewal process

23010. (a) Each applicant for a permit shall pay, at the time of filing the application, a fee determined by the Department of Justice, not to exceed the application processing costs of the Department of Justice.

(b) A permit granted pursuant to this chapter may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee, not to exceed the application processing costs of the Department of Justice.

(c) After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department’s budget.

**Comment.** Section 23010 continues the fourth paragraph of former Section 12424 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 23015. Permit for bank or other financial institution**

23015. (a) Notwithstanding Section 23000, a bank, a savings and loan association, a credit union, or an industrial loan company that maintains more than one office or branch may make a single annual application for a permit.

(b) In addition to the requirements set forth in this chapter, an application under this section shall separately state the business address and a full description of each office or branch in which the tear gas or tear gas weapon is to be kept, installed, or maintained. Any location addition or deletion as to an office or branch shall be reported to the department within 60 days of the change.

(c) A single permit issued under this section shall allow for the possession, operation, and maintenance of tear gas at each office or branch named in the application, including any location change.

**Comment.** Section 23015 continues former Section 12424.5 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

**§ 23020. Storage of permit**

23020. Every person, firm or corporation to whom a permit is issued shall either carry the permit upon the person or keep it in the place described in the permit. The permit shall be open to inspection by any peace officer or other person designated by the authority issuing the permit.

**Comment.** Section 23020 continues former Section 12425 without substantive change.

**§ 23025. Revocation or suspension of permit**

23025. A permit issued in accordance with this chapter may be revoked or suspended by the issuing authority at any time when it appears that the need for the possession or transportation of the tear gas or tear gas weapon or protective system involving the use thereof, has ceased, or that the holder of the permit has engaged in an unlawful business or occupation or has wrongfully made use of the tear gas or tear gas weapon or the permit issued.

**Comment.** Section 23025 continues former Section 12426 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

## TITLE 4. FIREARMS

### DIVISION 1. PRELIMINARY PROVISIONS

**§ 23500. Dangerous Weapons Control Law**

23500. The provisions listed in Section 16580 shall be known and may be cited as “The Dangerous Weapons Control Law.”

**Comment.** Section 23500 continues former Section 12000 without substantive change.

**§ 23505. Severability**

23505. If any section, subsection, sentence, clause, or phrase of any provision listed in Section 16580 is for any reason held unconstitutional, that decision does not affect the validity of any other provision listed in Section 16580. The Legislature hereby declares that it would have passed the provisions listed in Section 16580 and each section, subsection, sentence, clause, and phrase of it, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

**Comment.** Section 23505 continues former Section 12003 without substantive change. See also Section 12003, to the same effect as this provision.

**§ 23510. Distinct and separate offense despite reference to “any firearm”**

23510. For purposes of Sections 25400 and 26500, Sections 27500 to 27590, inclusive, Section 28100, Sections 29610 to 29750, inclusive, Sections 29800 to 29905, inclusive, and Section 31615 of this code, and any provision listed in subdivision (a) of Section 16585 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of each firearm constitutes a distinct and separate offense under those sections.

**Comment.** Section 23510 continues former Section 12001(k) without substantive change. See Section 16520 (“firearm”).

**§ 23515. Violent use of firearm**

23515. As used in the provisions listed in Section 16580, an offense that involves the violent use of a firearm includes any of the following:

- (a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a violation of subdivision (d) of Section 245.
- (b) A violation of Section 246.
- (c) A violation of paragraph (2) of subdivision (a) of Section 417.
- (d) A violation of subdivision (c) of Section 417.

**Comment.** Section 23515 continues former Section 12001.6 without substantive change. See Section 16520 (“firearm”).

**§ 23520. Fingerprint requirement**

23520. Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this part shall include two copies of the applicant’s fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

**Comment.** Section 23520 continues former Section 12001(m) without substantive change. See Section 16520 (“firearm”).

## DIVISION 2. FIREARM SAFETY DEVICES, GUN SAFES, AND RELATED WARNINGS

### § 23620. Aroner-Scott-Hayden Firearms Safety Act of 1999

23620. This division and Sections 16540, 16610, and 16870 shall be known and may be cited as the “Aroner-Scott-Hayden Firearms Safety Act of 1999.”

**Comment.** Section 23620 continues former Section 12087 without substantive change.

### § 23625. Legislative findings

23625. The Legislature makes the following findings:

(a) In the years 1987 to 1996, nearly 2,200 children in the United States under the age of 15 years died in unintentional shootings. In 1996 alone, 138 children were shot and killed unintentionally. Thus, more than 11 children every month, or one child every three days, were shot or killed unintentionally in firearms-related incidents.

(b) The United States leads the industrialized world in the rates of children and youth lost to unintentional, firearms-related deaths. A 1997 study from the federal Centers for Disease Control and Prevention reveals that for unintentional firearm-related deaths for children under the age of 15, the rate in the United States was nine times higher than in 25 other industrialized countries combined.

(c) While the number of unintentional deaths from firearms is an unacceptable toll on America’s children, nearly eight times that number are treated in U.S. hospital emergency rooms each year for nonfatal unintentional gunshot wounds.

(d) A study of unintentional firearm deaths among children in California found that unintentional gunshot wounds most often involve handguns.

(e) A study in the December 1995 issue of the Archives of Pediatric and Adolescent Medicine found that children as young as three years old are strong enough to fire most commercially available handguns. The study revealed that 25 percent of three to four year olds and 70 percent of five to six year olds had sufficient finger strength to fire 59 (92 percent) of the 64 commonly available handguns referenced in the study.

(f) The Government Accounting Office (GAO), in its March 1991 study, “Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be Prevented,” estimates that 31 percent of accidental deaths caused by firearms might be prevented by the addition of two safety devices: a child-resistant safety device that automatically engages and a device that indicates whether the gun is loaded. According to the study results, of the 107 unintentional firearms-related fatalities the GAO examined for the calendar years 1988 and 1989, 8 percent could have been prevented had the firearm been equipped with a child-resistant safety device. This 8 percent represents instances in which children under the age of six unintentionally shot and killed themselves or other persons.

(g) Currently, firearms are the only products manufactured in the United States that are not subject to minimum safety standards.

(h) A 1997 public opinion poll conducted by the National Opinion Research Center at the University of Chicago in conjunction with the Johns Hopkins Center for Gun Policy and Research found that 74 percent of Americans support safety regulation of the firearms industry.

(i) Some currently available trigger locks and other similar devices are inadequate to prevent the accidental discharge of the firearms to which they are attached, or to prevent children from gaining access to the firearm.

**Comment.** Section 23625 continues former Section 12087.5 without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”).

#### **§ 23630. Limitations on application**

23630. (a) This division does not apply to the commerce of any antique firearm.

(b)(1) This division does not apply to the commerce of any firearm intended to be used by a salaried, full-time peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, for purposes of law enforcement.

(2) Nothing in this division precludes a local government, local agency, or state law enforcement agency from requiring its peace officers to store their firearms in gun safes or attach firearm safety devices to those firearms.

**Comment.** In combination with Section 16170(b) (“antique firearm”), Section 23630 continues former Section 12088.8 without substantive change.

See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”).

#### **§ 23635. Firearm safety device requirement, warning requirement for noncomplying long-gun safe, and warning described in Section 23640**

23635. (a) Any firearm sold or transferred in this state by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall include or be accompanied by a firearm safety device that is listed on the Department of Justice’s roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

(b) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the standards set forth in Section 23650. Gun safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for purchase of the gun safe, or other proof of purchase or ownership of the gun safe as authorized by the Attorney General, to the firearms dealer. The dealer shall maintain a copy of this receipt or proof of purchase with the dealer’s record of sales of firearms.

(c) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of the following apply:

(1) The purchaser or transferee purchases an approved safety device no more than 30 days prior to the day the purchaser or transferee takes possession of the firearm.

(2) The purchaser or transferee presents the approved safety device to the firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer, which shows the date of purchase, the name, and the model number of the safety device.

(4) The firearms dealer verifies that the requirements in paragraphs (1) to (3), inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealer's record of sales of firearms.

(d)(1) Any long-gun safe commercially sold or transferred in this state, or manufactured in this state for sale in this state, that does not meet the standards for gun safes adopted pursuant to Section 23650 shall be accompanied by the following warning:

“WARNING: This gun safe does not meet the safety standards for gun safes specified in California Penal Code Section 23650. It does not satisfy the requirements of Penal Code Section 23635, which mandates that all firearms sold in California be accompanied by a firearm safety device or proof of ownership, as required by law, of a gun safe that meets the Section 23650 minimum safety standards developed by the California Attorney General.”

(2) This warning shall be conspicuously displayed in its entirety on the principal display panel of the gun safe's package, on any descriptive materials that accompany the gun safe, and on a label affixed to the front of the gun safe.

(3) This warning shall be displayed in both English and Spanish, in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package or descriptive materials, in a manner consistent with Part 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations thereto.

(e) Any firearm sold or transferred in this state by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall be accompanied by warning language or a label as described in Section 23640.

**Comment.** Subdivision (a) of Section 23635 continues former Section 12088.1(a) without substantive change.

Subdivision (b) continues former Section 12088.1(d) without substantive change.

Subdivision (c) continues former Section 12088.1(e) without substantive change.

Subdivision (d) continues former Section 12088.1(c) without substantive change.

Subdivision (e) continues former Section 12088.1(b) without substantive change.

See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”), 16870 (“long-gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 23640. Warning label**

23640. (a) The packaging of any firearm and any descriptive materials that accompany any firearm sold or transferred in this state, or delivered for sale in this state, by any licensed manufacturer, or licensed dealer, shall bear a label containing the following warning statement:

**WARNING**

Children are attracted to and can operate firearms that  
can cause severe injuries or death.

Prevent child access by always keeping guns locked  
away and unloaded when not in use. If you keep a  
loaded firearm where a child obtains and improperly  
uses it, you may be fined or sent to prison.

A yellow triangle containing an exclamation mark shall appear immediately before the word “Warning” on the label.

(b) If the firearm is sold or transferred without accompanying packaging, the warning label or notice shall be affixed to the firearm itself by a method to be prescribed by regulation of the Attorney General.

(c) The warning statement required under subdivisions (a) and (b) shall satisfy both of the following requirements:

(1) It shall be displayed in its entirety on the principal display panel of the firearm’s package, and on any descriptive materials that accompany the firearm.

(2) It shall be displayed in both English and Spanish, in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or descriptive materials, in a manner consistent with Part 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations thereto.

**Comment.** Section 23640 continues former Section 12088.3 without substantive change. See Section 16520 (“firearm”).

**§ 23645. Punishment for violation of Section 23635 or 23640**

23645. (a) Any violation of Section 23635 or Section 23640 is punishable by a fine of one thousand dollars (\$1,000).

(b) On a second violation of any of those sections, a licensed firearm manufacturer shall be ineligible to manufacture, or a licensed firearm dealer shall be ineligible to sell, firearms in this state for 30 days, and shall be punished by a fine of one thousand dollars (\$1,000).

(c)(1) On a third violation of any of those sections, a firearm manufacturer shall be permanently ineligible to manufacture firearms in this state.

(2) On a third violation of any of those sections, a licensed firearm dealer shall be permanently ineligible to sell firearms in this state.

**Comment.** Section 23645 continues former Section 12088.6 without substantive change.

A violation of the predecessor of Section 23635 (former Section 12088.1) or the predecessor of Section 23640 (former Section 12088.3) counts as a prior violation in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

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

**§ 23650. Minimum safety standard for firearm safety devices and gun safes**

23650. (a) The Attorney General shall develop regulations to implement a minimum safety standard for firearm safety devices and gun safes to significantly reduce the risk of firearm-related injuries to children 17 years of age and younger. The final standard shall do all of the following:

(1) Address the risk of injury from unintentional gunshot wounds.

(2) Address the risk of injury from self-inflicted gunshot wounds by unauthorized users.

(3) Include provisions to ensure that all firearm safety devices and gun safes are reusable and of adequate quality and construction to prevent children and unauthorized users from firing the firearm and to ensure that these devices cannot be readily removed from the firearm or that the firearm cannot be readily removed from the gun safe except by an authorized user utilizing the key, combination, or other method of access intended by the manufacturer of the device.

(4) Include additional provisions as appropriate.

(b) The Attorney General may consult, for the purposes of guidance in development of the standards, test protocols such as those described in Title 16 (commencing with Part 1700) of the Code of Federal Regulations, relating to poison prevention packaging standards. These protocols may be consulted to provide suggestions for potential methods to utilize in developing standards and shall serve as guidance only. The Attorney General shall also give appropriate consideration to the use of devices that are not detachable, but are permanently installed and incorporated into the design of a firearm.

(c) The Attorney General shall commence development of regulations under this section no later than January 1, 2000. The Attorney General shall adopt and issue regulations implementing a final standard no later than January 1, 2001. The Attorney General shall report to the Legislature on these standards by January 1, 2001. The final standard shall be effective January 1, 2002.

**Comment.** Section 23650 continues former Section 12088.2 without substantive change. See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”).

**§ 23655. Testing of firearm safety devices**

23655. (a) The Department of Justice shall certify laboratories to verify compliance with standards for firearm safety devices set forth in Section 23650.

(b) The Department of Justice may charge any laboratory that is seeking certification to test firearm safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to Section 23650.

(c) The certified laboratory shall, at the manufacturer's or dealer's expense, test a firearm safety device and submit a copy of the final test report directly to the Department of Justice, along with the firearm safety device. The department shall notify the manufacturer or dealer of its receipt of the final test report and the department's determination as to whether the firearm safety device tested may be sold in this state.

(d) Commencing on July 1, 2001, the Department of Justice shall compile, publish, and maintain a roster listing all of the firearm safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for firearm safety devices, and may be sold in this state.

(e) The roster shall list, for each firearm safety device, the manufacturer, model number, and model name.

(f) The department may randomly retest samples obtained from sources other than directly from the manufacturer of the firearm safety device listed on the roster to ensure compliance with the requirements of this division.

(g) Firearm safety devices used for random sample testing and obtained from sources other than the manufacturer shall be in new, unused condition, and still in the manufacturer's original and unopened package.

**Comment.** Section 23655 continues former Section 12088 without substantive change.

See Sections 16520 ("firearm"), 16540 ("firearm safety device"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 23660. Sale, distribution, or manufacture of unlisted or noncomplying firearm safety device**

23660. (a) No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 23655, or that does not comply with the standards for firearm safety devices adopted pursuant to Section 23650.

(b) No person may distribute as part of an organized firearm safety program, with or without consideration, any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 23655, or that does not comply with the standards for firearm safety devices adopted pursuant to Section 23650.

**Comment.** Subdivision (a) of Section 23660 continues former Section 12088.15(a) without substantive change.

Subdivision (b) continues former Section 12088.15(b) without substantive change.

See Sections 16520 ("firearm"), 16540 ("firearm safety device").

**§ 23665. Sale or manufacture of noncomplying long-gun safe**

23665. (a) No long-gun safe may be manufactured in this state for sale in this state that does not comply with the standards for gun safes adopted pursuant to Section 23650, unless the long-gun safe is labeled by the manufacturer consistent with the requirements of Section 23635.

(b)(1) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 23650, and who knows or has reason to know, that the long-gun safe in question does not meet the standards for gun safes adopted pursuant to Section 23650, is in violation of this section, and is punishable as provided in Section 23670, unless the long-gun safe is labeled pursuant to Section 23635.

(2) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 23650, and who removes or causes to be removed, from the long-gun safe, the label required pursuant to Section 23635, is in violation of this section, and is punishable as provided in Section 23670.

**Comment.** Subdivision (a) of Section 23665 continues former Section 12088.15(c) without substantive change.

Subdivision (b) continues former Section 12088.15(d) without substantive change.

See Sections 16610 (“gun safe”), 16870 (“long-gun safe”).

#### **§ 23670. Punishment for violation of Section 23660 or 23665**

23670. (a)(1) A violation of Section 23660 or 23665 is punishable by a civil fine of up to five hundred dollars (\$500).

(2) A second violation of any of those sections, which occurs within five years of the date of a previous offense, is punishable by a civil fine of up to one thousand dollars (\$1,000) and, if the violation is committed by a licensed firearms dealer, the dealer shall be ineligible to sell firearms in this state for 30 days.

(3) A third or subsequent violation that occurs within five years of two or more previous offenses is punishable by a civil fine of up to five thousand dollars (\$5,000) and, if the violation is committed by a licensed firearms dealer, the firearms dealer shall be permanently ineligible to sell firearms in this state.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of Section 23660 or 23665.

**Comment.** Subdivision (a) of Section 23670 continues former Section 12088.15(e) without substantive change.

Subdivision (b) continues former Section 12088.15(f) without substantive change.

A violation of the predecessor of Section 23660 (former Section 12088.15(a)-(b)) or the predecessor of Section 23665 (former Section 12088.15(c)-(d)) counts as a prior violation in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

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

#### **§ 23675. Effect of compliance**

23675. Compliance with the requirements set forth in this division does not relieve any person from liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance.

**Comment.** Section 23675 continues former Section 12088.7 without substantive change.

**§ 23680. Recall, replacement, or correction of nonconforming device**

23680. (a) If at any time the Attorney General determines that a gun safe or firearm safety device subject to the provisions of this division and sold after January 1, 2002, does not conform with the standards required by subdivision (a) of Section 23635 or Section 23650, the Attorney General may order the recall and replacement of the gun safe or firearm safety device, or order that the gun safe or firearm safety device be brought into conformity with those requirements.

(b) If the firearm safety device can be separated and reattached to the firearm without damaging the firearm, the licensed manufacturer or licensed firearms dealer shall immediately provide a conforming replacement as instructed by the Attorney General.

(c) If the firearm safety device cannot be separated from the firearm without damaging the firearm, the Attorney General may order the recall and replacement of the firearm.

**Comment.** Section 23680 continues former Section 12088.4 without substantive change.

See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 23685. Report of incident in which child suffers unintentional or self-inflicted gunshot wound**

23685. Each lead law enforcement agency investigating an incident shall report to the State Department of Health Services any information obtained that reasonably supports the conclusion that:

(a) A child 18 years of age or younger suffered an unintentional or self-inflicted gunshot wound inflicted by a firearm that was sold or transferred in this state, or manufactured in this state.

(b) Whether as a result of that incident the child died, suffered serious injury, or was treated for an injury by a medical professional.

**Comment.** Section 23685 continues former Section 12088.5 without change.

See Section 16520 (“firearm”).

**§ 23690. Fee**

23690. (a)(1) The Department of Justice may require each dealer to charge each firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm transaction.

(2) The fee shall be for the purpose of supporting department program costs related to this act, including the establishment, maintenance, and upgrading of related database systems and public rosters.

(b)(1) There is hereby created within the General Fund the Firearm Safety Account.

(2) Revenue from the fee imposed by subdivision (a) shall be deposited into the Firearm Safety Account and shall be available for expenditure by the Department of Justice upon appropriation by the Legislature.

(3) Expenditures from the Firearm Safety Account shall be limited to program expenditures as defined by subdivision (a).

**Comment.** Section 23690 continues former Section 12088.9 without substantive change.

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

## DIVISION 3. DISGUISED OR MISLEADING APPEARANCE

### CHAPTER 1. MISCELLANEOUS PROVISIONS

#### § 23800. Bright orange or bright green firearm

23800. Any person who, for commercial purposes, purchases, sells, manufactures, ships, transports, distributes, or receives a firearm, where the coloration of the entire exterior surface of the firearm is bright orange or bright green, either singly, in combination, or as the predominant color in combination with other colors in any pattern, is liable for a civil fine in an action brought by the city attorney of the city, or the district attorney for the county, of not more than ten thousand dollars (\$10,000).

**Comment.** Section 23800 continues former Section 12020.3 without substantive change.

See Section 16520 (“firearm”).

### CHAPTER 2. OBLITERATION OF IDENTIFICATION MARKS

#### § 23900. Obliteration of firearm identification marks prohibited

23900. Any person who changes, alters, removes, or obliterates the name of the maker, model, manufacturer’s number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make that change, alteration, or removal shall be punished by imprisonment in the state prison.

**Comment.** Section 23900 continues former Section 12090 without substantive change.

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

#### § 23910. Assignment of number or mark when firearm lacks one

23910. The Department of Justice upon request may assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer’s number or other mark of identification, or whenever the manufacturer’s number or other mark of identification or a distinguishing number or mark assigned by the department has been destroyed or obliterated.

**Comment.** Section 23910 continues former Section 12092 without substantive change. See Section 16520 (“firearm”).

**§ 23915. Additional number or identifying indicium**

23915. (a) Any person may place or stamp on any pistol, revolver, or other firearm any number or identifying indicium, provided the number or identifying indicium does not change, alter, remove, or obliterate the manufacturer’s name, number, model, or other mark of identification.

(b) This section does not prohibit restoration by the owner of the name of the maker or model, or of the original manufacturer’s number or other mark of identification, when that restoration is authorized by the department.

(c) This section does not prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer’s number, or other mark of identification upon a new firearm.

**Comment.** Section 23915 continues former Section 12093 without substantive change.

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

**§ 23920. Possession, sale, or purchase of firearm with knowledge of obliteration of identifying number or mark**

23920. Except as provided in Section 23925, any person who, with knowledge of any change, alteration, removal, or obliteration described in this section, buys, receives, disposes of, sells, offers for sale, or has in possession any pistol, revolver, or other firearm that has had the name of the maker or model, or the manufacturer’s number or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, changed, altered, removed, or obliterated, is guilty of a misdemeanor.

**Comment.** Section 23920 continues former Section 12094(a) without substantive change.

For circumstances in which this section is inapplicable, see Section 23925 (exemptions).

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

**§ 23925. Exemptions**

23925. Section 23920 does not apply to any of the following:

(a) The acquisition or possession of a firearm described in Section 23920 by any member of the military forces of this state or of the United States, while on duty and acting within the scope and course of employment.

(b) The acquisition or possession of a firearm described in Section 23920 by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of employment.

(c) The acquisition or possession of a firearm described in Section 23920 by any employee of a forensic laboratory, while on duty and acting within the scope and course of employment.

(d) The possession and disposition of a firearm described in Section 23920 by a person who meets all of the following:

(1) The person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

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

(3) If the person is transporting the firearm, the person is transporting it to a law enforcement agency in order to deliver it to the agency for the agency's disposition according to law.

(4) If the person is transporting the firearm to a law enforcement agency, the person has given prior notice to the agency that the person is transporting the firearm to that agency for the agency's disposition according to law.

(5) The firearm is transported in a locked container as defined in Section 16850.

**Comment.** Section 23925 continues former Section 12094(b) without substantive change. See Section 16520 ("firearm").

### CHAPTER 3. CAMOUFLAGING FIREARM CONTAINER

#### **§ 24310. Prohibition on manufacture, import, sale, gift, loan, or possession of camouflaging firearm container**

24310. 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 camouflaging firearm container is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a camouflaging firearm container, Section 24310 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 16320 ("camouflaging firearm container"). See also Sections 17800 (distinct and separate offense), 24390 (camouflaging firearm container constituting nuisance).

#### **§ 24390. Camouflaging firearm container constituting nuisance**

24390. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any camouflaging firearm container is a nuisance and is subject to Section 18010.

**Comment.** With respect to a camouflaging firearm container, Section 24390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16320 ("camouflaging firearm container").

### CHAPTER 4. CANE GUN

#### **§ 24410. Prohibition on manufacture, import, sale, gift, loan, or possession of cane gun**

24410. 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 cane gun is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a cane gun, Section 24410 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 16330 (“cane gun”). See also Sections 17800 (distinct and separate offense), 24490 (cane gun constituting nuisance).

**§ 24490. Cane gun constituting nuisance**

24490. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any cane gun is a nuisance and is subject to Section 18010.

**Comment.** With respect to a cane gun, Section 24490 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16330 (“cane gun”).

CHAPTER 5. FIREARM NOT IMMEDIATELY RECOGNIZABLE AS A FIREARM

**§ 24510. Prohibition on manufacture, import, sale, gift, loan, or possession of firearm not immediately recognizable as firearm**

24510. 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 firearm not immediately recognizable as a firearm is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a firearm that is not immediately recognizable as a firearm, Section 24510 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 16520 (“firearm”). See also Sections 17800 (distinct and separate offense), 24590 (firearm not immediately recognizable as such constitutes nuisance).

**§ 24590. Firearm not immediately recognizable as such constitutes nuisance**

24590. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any firearm not immediately recognizable as a firearm is a nuisance and is subject to Section 18010.

**Comment.** With respect to a firearm that is not immediately recognizable as a firearm, Section 24590 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16520 (“firearm”).

## CHAPTER 6. UNDETECTABLE FIREARM AND FIREARM DETECTION EQUIPMENT

### **§ 24610. Prohibition on manufacture, import, sale, gift, loan, or possession of undetectable firearm**

24610. 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 undetectable firearm is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to an undetectable firearm, Section 24610 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 17280 (“undetectable firearm”). See also Sections 17800 (distinct and separate offense), 24690 (undetectable firearm constituting nuisance).

### **§ 24680. Firearm detection equipment**

24680. Any firearm detection equipment newly installed in a nonfederal public building in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, while distinguishing innocuous metal objects likely to be carried on one’s person sufficient for reasonable passage of the public.

**Comment.** Section 24680 continues the second paragraph of former Section 12020(c)(22)(C) without substantive change.

See Sections 16520 (“firearm”), 17280 (“undetectable firearm”).

### **§ 24690. Undetectable firearm constituting nuisance**

24690. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any undetectable firearm is a nuisance and is subject to Section 18010.

**Comment.** With respect to an undetectable firearm, Section 24690 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17280 (“undetectable firearm”).

## CHAPTER 7. WALLET GUN

### **§ 24710. Prohibition on manufacture, import, sale, gift, loan, or possession of wallet gun**

24710. 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 wallet gun is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a wallet gun, Section 24710 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 17330 (“wallet gun”). See also Sections 17800 (distinct and separate offense), 24790 (wallet gun constituting nuisance).

**§ 24790. Wallet gun constituting nuisance**

24790. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any wallet gun is a nuisance and is subject to Section 18010.

**Comment.** With respect to a wallet gun, Section 24790 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17330 (“wallet gun”).

## DIVISION 4. STORAGE OF FIREARMS

### CHAPTER 1. PRELIMINARY PROVISIONS

**§ 25000. “Child”**

25000. As used in this division, “child” means a person under 18 years of age.

**Comment.** Section 25000 continues former Sections 12035(a)(3) and 12036(a)(2) without substantive change.

### CHAPTER 2. CRIMINAL STORAGE OF FIREARM

**§ 25100. Criminal storage of firearm**

25100. (a) Except as provided in Section 25105, a person commits the crime of “criminal storage of a firearm of the first degree” if all of the following conditions are satisfied:

(1) The person keeps any loaded firearm within any premises that are under the person’s custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian.

(3) The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person.

(b) Except as provided in Section 25105, a person commits the crime of “criminal storage of a firearm of the second degree” if all of the following conditions are satisfied:

(1) The person keeps any loaded firearm within any premises that are under the person’s custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian.

(3) The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place or in violation of Section 417.

**Comment.** Subdivision (a) of Section 25100 continues former Section 12035(b)(1) without substantive change.

Subdivision (b) continues former Section 12035(b)(2) without substantive change.

For a provision requiring a firearms dealer to post a notice with warnings about firearm storage, see Section 26835.

See Sections 16520 (“firearm”), 16600 (“great bodily injury”), 16840 (“loaded” and “loaded firearm”), 25000 (“child”).

#### § 25105. Exceptions

25105. Section 25100 does not apply whenever any of the following occurs:

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

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

(c) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.

(d) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.

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

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

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

**Comment.** Section 25105 continues former Section 12035(c) without substantive change.

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”), 16850 (“locked container”), 25000 (“child”).

#### § 25110. Punishment

25110. (a) Criminal storage of a firearm in the first degree is punishable by imprisonment in the state prison for 16 months, or two or three years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

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

**Comment.** Section 25110 continues former Section 12035(d) without substantive change.

See Section 25100 (criminal storage of firearm).

**§ 25115. Prosecution of parent or guardian**

25115. If a person who allegedly violated Section 25100 is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated Section 25100 when deciding whether to prosecute the alleged violation. It is the Legislature's intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This section shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute an alleged violation of Section 25100.

**Comment.** Section 25115 continues former Section 12035(e) without substantive change. See Section 25000 ("child").

**§ 25120. Timing of prosecution of parent or guardian**

25120. (a) If a person who allegedly violated Section 25100 is the parent or guardian of a child who was injured or who died as the result of an accidental shooting, no arrest of the person for the alleged violation of Section 25100 shall occur until at least seven days after the date upon which the accidental shooting occurred.

(b) In addition to the limitation stated in subdivision (a), before arresting a person for a violation of Section 25100, a law enforcement officer shall consider the health status of a child who suffered great bodily injury as the result of an accidental shooting, if the person to be arrested is the parent or guardian of the injured child. The intent of this section is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

**Comment.** Section 25120 continues former Section 12035(f) without substantive change. See Sections 16600 ("great bodily injury"), 25000 ("child").

**§ 25125. Impact of attending firearm safety training course**

25125. (a) The fact that a person who allegedly violated Section 25100 attended a firearm safety training course prior to the purchase of the firearm that was obtained by a child in violation of Section 25100 shall be considered a mitigating factor by a district attorney when deciding whether to prosecute the alleged violation.

(b) In any action or trial commenced under Section 25100, the fact that the person who allegedly violated Section 25100 attended a firearm safety training course prior to the purchase of the firearm that was obtained by a child in violation of Section 25100 is admissible.

**Comment.** Section 25125 continues former Section 12035(g) without substantive change. See Sections 16520 ("firearm"), 25000 ("child").

**§ 25130. Posting of required notice**

25130. Every person licensed under Sections 26700 to 26915, inclusive, shall post within the licensed premises the notice required by Section 26835, disclosing the duty imposed by this chapter upon any person who keeps a loaded firearm.

**Comment.** Section 25130 continues former Section 12035(h) without substantive change. See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

CHAPTER 3. STORAGE OF FIREARM WHERE CHILD OBTAINS ACCESS AND  
CARRIES FIREARM OFF-PREMISES

**§ 25200. Storage of firearm where child obtains access and carries firearm off-premises**

25200. (a) If all of the following conditions are satisfied, a person shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine:

(1) The person keeps a pistol, revolver, or other firearm capable of being concealed upon the person, loaded or unloaded, within any premises that are under the person’s custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to that firearm without the permission of the child’s parent or legal guardian.

(3) The child obtains access to that firearm and thereafter carries that firearm off-premises.

(b) If all of the following conditions are satisfied, a person shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding five thousand dollars (\$5,000), or by both that imprisonment and fine:

(1) The person keeps any firearm within any premises that are under the person’s custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian.

(3) The child obtains access to the firearm and thereafter carries that firearm off-premises to any public or private preschool, elementary school, middle school, high school, or to any school-sponsored event, activity, or performance, whether occurring on school grounds or elsewhere.

(c) A pistol, revolver, or other firearm capable of being concealed upon the person that a child gains access to and carries off-premises in violation of this section shall be deemed “used in the commission of any misdemeanor as provided in this code or any felony” for the purpose of Section 29300 regarding the authority to confiscate firearms and other deadly weapons as a nuisance.

(d) As used in this section, “off-premises” means premises other than the premises where the firearm was stored.

**Comment.** Subdivision (a) of Section 25200 continues former Section 12036(b) without substantive change.

Subdivision (b) continues former Section 12036(c) without substantive change.

Subdivision (c) continues former Section 12036(d) without substantive change.

Subdivision (d) continues former Section 12036(a)(3) without substantive change.

For circumstances in which this section does not apply, see Section 25205. For a provision requiring a firearms dealer to post a notice with warnings about firearm storage, see Section 26835.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 25000 (“child”).

#### **§ 25205. Exceptions**

25205. Section 25200 does not apply if any of the following are true:

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

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

(c) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.

(d) The firearm is carried on the person within close enough range that the individual can readily retrieve and use the firearm as if carried on the person.

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

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

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

**Comment.** Section 25205 continues former Section 12036(e) without substantive change.

See Sections 16520 (“firearm”), 16850 (“locked container”), 25000 (“child”).

#### **§ 25210. Prosecution of parent or guardian**

25210. If a person who allegedly violated Section 25200 is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated Section 25200 when deciding whether to prosecute the alleged violation. It is the Legislature’s intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This section shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute alleged violations of Section 25200.

**Comment.** Section 25210 continues former Section 12036(f) without substantive change.

See Section 25000 (“child”).

**§ 25215. Timing of prosecution of parent or guardian**

25215. (a) If a person who allegedly violated Section 25200 is the parent or guardian of a child who was injured or who died as the result of an accidental shooting, no arrest of the person for the alleged violation of Section 25200 shall occur until at least seven days after the date upon which the accidental shooting occurred.

(b) In addition to the limitation contained in subdivision (a), before arresting a person for a violation of Section 25200, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting, if the person to be arrested is the parent or guardian of the injured child. The intent of this section is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

**Comment.** Section 25215 continues former Section 12036(g) without substantive change. See Sections 16600 (“great bodily injury”), 25000 (“child”).

**§ 25220. Impact of attending firearm safety training course**

25220. (a) The fact that the person who allegedly violated Section 25200 attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of Section 25200 shall be considered a mitigating factor by a district attorney when deciding whether to prosecute the alleged violation.

(b) In any action or trial commenced under Section 25200, the fact that the person who allegedly violated Section 25200 attended a firearm safety training course prior to the purchase of the firearm that was obtained by a child in violation of Section 25200 is admissible.

**Comment.** Section 25220 continues former Section 12036(h) without substantive change. See Sections 16520 (“firearm”), 25000 (“child”).

**§ 25225. Posting of required notice**

25225. Every person licensed under Sections 26700 to 26915, inclusive, shall post within the licensed premises the notice required by Section 26835, disclosing the duty imposed by this chapter upon any person who keeps any firearm.

**Comment.** Section 25225 continues former Section 12036(i) without substantive change. See Section 16520 (“firearm”).

## DIVISION 5. CARRYING FIREARMS

### CHAPTER 1. MISCELLANEOUS RULES RELATING TO CARRYING FIREARMS

#### **§ 25300. Carrying firearm in public while masked to hide identity**

25300. (a) A person commits criminal possession of a firearm when the person carries a firearm in a public place or on any public street while masked so as to hide the person's identity.

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

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

(1) A peace officer in performance of the officer's duties.

(2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state.

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

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

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

**Comment.** Section 25300 continues former Section 12040 without substantive change. See Section 16520 ("firearm").

### CHAPTER 2. CARRYING A CONCEALED FIREARM

#### Article 1. Crime of Carrying a Concealed Firearm

#### **§ 25400. Crime of carrying concealed firearm**

25400. (a) A person is guilty of carrying a concealed firearm when the person does any of the following:

(1) Carries concealed within any vehicle that is under the person's control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

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

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

(b) A firearm carried openly in a belt holster is not concealed within the meaning of this section.

(c) Carrying a concealed firearm in violation of this section is punishable as follows:

(1) If the person previously has been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, as a felony.

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

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

(4) If the person is not in lawful possession of the firearm or the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

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

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

(A) The pistol, revolver, or other firearm capable of being concealed upon the person is loaded, or both it and the unexpended ammunition capable of being discharged from it are in the immediate possession of the person or readily accessible to that person.

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

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

(d)(1) Every person convicted under this section who previously has been convicted of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that the person be imprisoned in a county jail for at least three months.

(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that the person be imprisoned in a county jail for not less than three months.

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

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

**Comment.** Subdivision (a) of Section 25400 continues former Section 12025(a) without substantive change.

Subdivision (b) continues former Section 12025(f) without substantive change.

Subdivision (c) continues former Section 12025(b) without substantive change. Subdivision (d) continues former Section 12025(d) without substantive change. For guidance in applying paragraphs (c)(1) and (d)(2), see Section 16015 (determining existence of prior conviction).

Subdivision (e) continues former Section 12025(e) without substantive change.

Subdivision (f) continues former Section 12025(c) without substantive change.

Former Section 12025(g) is continued in Section 16750 (“lawful possession of the firearm”).

Former Section 12025(h) was repealed by its own terms on January 1, 2005, so it is not continued. See 1999 Cal. Stat. ch. 571, § 2.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 16840 (“loaded” and “loaded firearm”).

## Article 2. Peace Officer Exemption

### § 25450. Peace officer exemption

25450. As provided in this article, Section 25400 does not apply to, or affect, any of the following:

(a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired.

(b) Any other duly appointed peace officer.

(c) Any honorably retired peace officer listed in subdivision (c) of Section 830.5.

(d) Any other honorably retired peace officer who during the course and scope of employment as a peace officer was authorized to, and did, carry a firearm.

(e) Any full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

(f) Any person summoned by any of these officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer.

**Comment.** Section 25450 continues the first sentence of former Section 12027(a)(1)(A) without substantive change.

For an exemption relating to honorably retired federal officers and agents, see Section 25650.

For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925. For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections 26300-26325.

See Sections 16520 (“firearm”), 16690 (“honorably retired”).

#### **§ 25455. Identification certificate for honorably retired peace officer**

25455. (a) Any peace officer described in Section 25450 who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer retired.

(b) The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this article.

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

(d) An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm.

**Comment.** Subdivision (a) of Section 25455 continues the second sentence of former Section 12027(a)(1)(A) without substantive change.

Subdivision (b) continues the third sentence of former Section 12027(a)(1)(A) without substantive change.

Subdivision (c) continues former Section 12027(a)(1)(B) without substantive change.

Subdivision (d) continues the second sentence of former Section 12027(a)(2) without substantive change.

For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925. For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections 26300-26325.

See Sections 16520 (“firearm”), 16690 (“honorably retired”).

#### **§ 25460. Format of endorsement on identification certificate**

25460. (a) Except as provided in subdivision (b), no endorsement or renewal endorsement issued pursuant to Section 25465 shall be effective unless it is in the format set forth in subdivision (c).

(b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this article, shall not be required to have an endorsement in the format set forth

in subdivision (c) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to Section 25465.

(c) A certificate issued pursuant to Section 25455 for any person who is not listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5, or for any person retiring after January 1, 1981, shall be in the following format: it shall be on a 2x3 inch card, bear the photograph of the retiree, include the retiree's name, date of birth, the date that the retiree retired, and the name and address of the agency from which the retiree retired, and have stamped on it the endorsement "CCW Approved" and the date the endorsement is to be renewed. A certificate issued pursuant to Section 25455 shall not be valid as identification for the sale, purchase, or transfer of a firearm.

**Comment.** Subdivisions (a) and (b) of Section 25460 continue former Section 12027(a)(1)(C) without substantive change.

Subdivision (c) continues former Section 12027(a)(1)(D) without substantive change.

See Sections 16360 ("CCW"), 16520 ("firearm").

#### **§ 25465. Renewal of privilege to carry concealed firearm**

25465. Every five years, a retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of the officer's privilege to carry a concealed firearm.

**Comment.** Section 25465 continues the first sentence of former Section 12027(a)(2) without substantive change.

See Section 16520 ("firearm").

#### **§ 25470. Denial or revocation of privilege to carry concealed firearm**

25470. (a) The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a concealed firearm.

(b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have the privilege to carry a concealed firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

**Comment.** Subdivision (a) of Section 25470 continues the third sentence of former Section 12027(a)(2) without substantive change.

Subdivision (b) continues the fourth sentence of former Section 12027(a)(2) without substantive change.

See Sections 16360 ("CCW"), 16520 ("firearm"), 16690 ("honorably retired").

#### **§ 25475. Maintaining privilege to carry concealed firearm**

25475. (a) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry a concealed firearm by this article shall meet

the training requirements of Section 832 and shall qualify with the firearm at least annually.

(b) The individual retired peace officer shall be responsible for maintaining eligibility to carry a concealed firearm.

(c) The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

**Comment.** Section 25475 continues former Section 12027(a)(3) without substantive change. See Sections 16520 (“firearm”), 16690 (“honorably retired”).

### Article 3. Conditional Exemptions

#### § 25505. Conditions for exemption to apply

25505. In order for a firearm to be exempted under this article, while being transported to or from a place, the firearm shall be unloaded and kept in a locked container, and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

**Comment.** Section 25505 continues former Section 12026.2(b) without substantive change.

For another provision on transporting a firearm in a locked container, see Section 25610 (carrying firearm in locked container).

See Sections 16520 (“firearm”), 16850 (“locked container”).

#### § 25510. Exemption for motion picture, television, video production, or entertainment event

25510. Section 25400 does not apply to, or affect, any of the following:

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

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

**Comment.** Subdivision (a) of Section 25510 continues former Section 12026.2(a)(1) without substantive change.

Subdivision (b) continues former Section 12026.2(a)(8) without substantive change.

For conditions on invoking these exemptions, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

#### § 25515. Exemption for club or organization for lawfully collecting and displaying firearms

25515. Section 25400 does not apply to, or affect, the possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other

firearms, while the member is at a meeting of the club or organization or while going directly to, and coming directly from, a meeting of the club or organization.

**Comment.** Section 25515 continues former Section 12026.2(a)(2) without substantive change.

For conditions on invoking this exemption, see Section 25505. For an exemption relating to transportation of a curio or relic brought into the state by licensed collector, see Section 25580. For a provision on the effect of this article, see Section 25595.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16850 (“locked container”).

**§ 25520. Exemption for recognized sporting event or safety or hunter safety class**

25520. Section 25400 does not apply to, or affect, the transportation of a firearm by a participant when going directly to, or coming directly from, a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

**Comment.** Section 25520 continues former Section 12026.2(a)(3) without substantive change.

For conditions on invoking this exemption, see Section 25505. For another exemption relating to hunting, see Section 25640 (licensed hunters or fishermen). For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25525. Exemption for transportation of firearm by owner or person in lawful possession to place of residence, place of business, or other private property of that person**

25525. (a) Section 25400 does not apply to, or affect, the transportation of a firearm by any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, directly between any of the following places:

- (1) The person’s place of residence.
- (2) The person’s place of business.
- (3) Private property owned or lawfully possessed by the person.

(b) Section 25400 does not apply to, or affect, the transportation of a firearm by a person listed in subdivision (a) when going directly from the place where that person lawfully received that firearm to that person’s place of residence or place of business or to private property owned or lawfully possessed by that person.

**Comment.** Subdivision (a) of Section 25525 continues former Section 12026.2(a)(4) without substantive change. Former Section 12026.2(a)(4) referred to “a person listed in Section 12026” and “the places mentioned in Section 12026.” To make subdivision (a) of Section 25525 readily understandable, those references have been replaced with the pertinent language from former Section 12026, which is continued in Section 25605.

Subdivision (b) continues former Section 12026.2(a)(6) without substantive change. Former Section 12026.2(a)(6) referred to “a person listed in Section 12026.” To make subdivision (b) of Section 25525 readily understandable, that reference has been replaced with a reference to “a person listed in subdivision (a).” This is equivalent to the previous reference, because subdivision (a) includes the pertinent language from former Section 12026.

For conditions on invoking these exemptions, see Section 25505. For an exemption relating to carrying or possession of a firearm at one’s place of residence, place of business, or other private property, see Section 25605. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25530. Exemption for repair, transfer, sale, or loan of firearm**

25530. Section 25400 does not apply to, or affect, the transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful sale, loan, or transfer of that firearm.

**Comment.** Section 25530 continues former Section 12026.2(a)(5) without substantive change.

For conditions on invoking this exemption, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25535. Exemption for gun show, swap meet, or similar event**

25535. Section 25400 does not apply to, or affect, any of the following:

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

(b) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with Section 27545.

**Comment.** Subdivision (a) of Section 25535 continues former Section 12026.2(a)(7) without substantive change.

Subdivision (b) continues former Section 12026.2(a)(14) without substantive change.

For conditions on invoking these exemptions, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25540. Exemption for target range**

25540. Section 25400 does not apply to, or affect, the transportation of a firearm by a person when going directly to, or coming directly from, a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

**Comment.** Section 25540 continues former Section 12026.2(a)(9) without substantive change.

For conditions on invoking this exemption, see Section 25505. For another exemption relating to practicing at a target range, see Section 25635 (member of club or organization for purpose of practicing at established target ranges). For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25545. Exemption for transportation to place designated by person authorized to issue license to carry firearm**

25545. Section 25400 does not apply to, or affect, the transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 26150, 26155, 26170, or 26215, when done at the request of the issuing agency so that the issuing agency

can determine whether or not a license should be issued to that person to carry that firearm.

**Comment.** Section 25545 continues former Section 12026.2(a)(10) without substantive change.

For conditions on invoking this exemption, see Section 25505. For an exemption relating to a person with a license to carry a concealed pistol, revolver, or other firearm capable of being concealed upon the person, see Section 25655. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

#### **§ 25550. Exemption for camping**

25550. (a) Section 25400 does not apply to, or affect, the transportation of a firearm by a person when going directly to, or coming directly from, a lawful camping activity for the purpose of having that firearm available for lawful personal protection while at the lawful campsite.

(b) This section shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

**Comment.** Section 25550 continues former Section 12026.2(a)(11) without substantive change.

For conditions on invoking this exemption, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

#### **§ 25555. Exemption for person taking title or possession of firearm by operation of law, or person receiving firearm by gift, bequest, intestate succession, or other means from immediate family member**

25555. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with Section 27870, 27875, 27915, 27920, or 27925, as it pertains to that firearm.

**Comment.** Section 25555 continues former Section 12026.2(a)(12) without substantive change.

For conditions on invoking this exemption, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

#### **§ 25560. Exemption for transportation of firearm to utilize Section 28000**

25560. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to utilize Section 28000 as it pertains to that firearm.

**Comment.** Section 25560 continues former Section 12026.2(a)(13) without substantive change.

For conditions on invoking this exemption, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25565. Exemption for sale, delivery, or transfer of firearm to governmental entity as part of program where entity is buying or receiving weapons from private individuals**

25565. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to sell, deliver, or transfer the firearm as specified in Section 27850 or 31725 to an authorized representative of a city, city and county, county, or state or federal government that is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals.

**Comment.** Section 25565 continues former Section 12026.2(a)(15) without substantive change. Former Section 12026.2(a)(15) referred to “transportation of a firearm by a person in order to utilize paragraph (6) of subdivision (a) of Section 12078 as it pertains to that firearm.” To make Section 25565 readily understandable, that reference has been replaced by pertinent language from former Section 12078(a)(6) and cross-references to Sections 27850 and 31725, which continue former Section 12078(a)(6).

For conditions on invoking this exemption, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25570. Exemption for transportation of firearm by finder to law enforcement agency**

25570. Section 25400 does not apply to, or affect, any of the following:

(a) The transportation of a firearm by a person who finds the firearm, if the person is transporting the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm, and, if the person is transporting the firearm to a law enforcement agency, the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency.

(b) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

**Comment.** Subdivision (a) of Section 25570 continues former Section 12026.2(a)(16) without substantive change.

Subdivision (b) continues former Section 12026.2(a)(18) without substantive change.

For conditions on invoking these exemptions, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25575. Exemption for compliance with restrictions relating to importation of handgun by personal handgun importer**

25575. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with Section 27560 as it pertains to that firearm.

**Comment.** Section 25575 continues former Section 12026.2(a)(17) without substantive change.

For conditions on invoking this exemption, see Section 25505. For an exemption relating to transportation of unloaded handguns by a licensed manufacturer, importer, wholesaler, repairer, or dealer, see Section 25615. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25580. Exemption for transportation of curio or relic brought into state by licensed collector**

25580. Section 25400 does not apply to, or affect, the transportation of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, by a person in order to comply with Section 27565 as it pertains to that firearm.

**Comment.** Section 25580 continues former Section 12026.2(a)(19) without substantive change. Former Section 12026.2(a)(19) referred to “transportation of a firearm by a person in order to comply with paragraph (3) of subdivision (f) of Section 12072.” To make Section 25580 readily understandable, that reference has been replaced by key language from former Section 12072(f)(3) and a cross-reference to Sections 27565, which continues former Section 12072(f)(3).

For conditions on invoking this exemption, see Section 25505. For an exemption relating to a club or organization for lawfully collecting and displaying firearms, see Section 25515. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25585. Exemption for transportation of firearm to obtain identification number or mark**

25585. Section 25400 does not apply to, or affect, the transportation of a firearm by a person for the purpose of obtaining an identification number or mark assigned to that firearm from the Department of Justice pursuant to Section 23910.

**Comment.** Section 25585 continues former Section 12026.2(a)(20) without substantive change.

For conditions on invoking this exemption, see Section 25505. For a provision on the effect of this article, see Section 25595.

See Section 16520 (“firearm”).

**§ 25595. Effect of article**

25595. This article does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with the provisions listed in Section 16580.

**Comment.** Section 25595 continues former Section 12026.2(c) without substantive change.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

## Article 4. Other Exemptions

**§ 25600. Carrying concealed firearm when in reasonable belief of grave danger to self**

25600. (a) A violation of Section 25400 is justifiable when a person who possesses a firearm reasonably believes that person is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person who has been found to pose a threat to the life or safety of the person who possesses the firearm. This section may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a

specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to a defendant charged with violating Section 25400 or committing another similar offense.

(b) Upon trial for violating Section 25400, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that the defendant was in grave danger.

**Comment.** Section 25600 continues former Section 12025.5 without substantive change. See Section 16520 ("firearm").

**§ 25605. Carrying or possession of firearm at one's place of residence, place of business, or other private property**

25605. (a) Section 25400 shall not apply to or affect any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, who carries, either openly or concealed, anywhere within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident, any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) No permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase, own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

(c) Nothing in this section shall be construed as affecting the application of Sections 25850 to 26055, inclusive.

**Comment.** Section 25605 continues former Section 12026 without substantive change.

For an exemption relating to transportation of a firearm by the owner or a person in lawful possession of the firearm to that person's place of residence, place of business, or other private property, see Section 25525.

See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

**§ 25610. Carrying firearm in locked container**

25610. (a) Section 25400 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, from transporting or carrying any pistol,

revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle.

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

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with the provisions listed in Section 16580.

**Comment.** Subdivision (a) of Section 25610 continues former Section 12026.1(a) without substantive change, except for the last phrase of paragraph (a)(1) ("other than the utility or glove compartment"). That phrase and former Section 12026.1(c) are continued in Section 16850 ("locked container").

Subdivision (b) continues former Section 12026.1(b) without substantive change.

For another provision on transporting a firearm in a locked container, see Section 25505 (conditions for Article 3 exemptions to apply).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16850 ("locked container").

**§ 25615. Transportation of unloaded handguns by licensed manufacturer, importer, wholesaler, repairer, or dealer**

25615. Section 25400 does not apply to, or affect, the possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while engaged in the lawful course of the business.

**Comment.** Section 25615 continues former Section 12027(b) without substantive change.

For an exemption relating to compliance with restrictions on importation of handguns by a personal handgun importer, see Section 25575.

See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

**§ 25620. Member of military on duty or organization authorized by law to purchase or receive weapons**

25620. Section 25400 does not apply to, or affect, any member of the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the National Guard, when on duty, or any organization that is by law authorized to purchase or receive those weapons from the United States or this state.

**Comment.** Section 25620 continues former Section 12027(c) without substantive change.

For an exemption relating to parading by a duly authorized military or civil organization, or traveling to a meeting of such an organization, see Section 25625.

**§ 25625. Parading by, or traveling to meeting of, duly authorized military or civil organization**

25625. Section 25400 does not apply to, or affect, the carrying of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person by duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

**Comment.** Section 25625 continues former Section 12027(d) without substantive change.

For an exemption relating to a member of the military on duty or an organization authorized by law to purchase or receive weapons, see Section 25620.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 25630. Guard or messenger of common carrier, bank, or financial institution, when involved in shipping, transporting, or delivering money or other thing of value**

25630. Section 25400 does not apply to, or affect, any guard or messenger of any common carrier, bank, or other financial institution, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

**Comment.** Section 25630 continues former Section 12027(e) without substantive change.

For another exemption relating to common carriers, see Section 25645 (transportation of unloaded firearms by person operating licensed common carrier).

**§ 25635. Member of club or organization for purpose of practicing at established target ranges**

25635. Section 25400 does not apply to, or affect, members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using pistols, revolvers, or other firearms capable of being concealed upon the person upon the target ranges, or transporting these firearms unloaded when going to and from the ranges.

**Comment.** Section 25635 continues former Section 12027(f) without substantive change.

For another exemption relating to practicing at a target range, see Section 25540 (target range).

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 25640. Licensed hunters or fishermen**

25640. Section 25400 does not apply to, or affect, licensed hunters or fishermen carrying pistols, revolvers, or other firearms capable of being concealed upon the person while engaged in hunting or fishing, or transporting those firearms unloaded when going to or returning from the hunting or fishing expedition.

**Comment.** Section 25640 continues former Section 12027(g) without substantive change.

For another exemption relating to hunting, see Section 25520 (recognized sporting event or safety or hunter safety class).

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 25645. Transportation of unloaded firearms by person operating licensed common carrier**

25645. Section 25400 does not apply to, or affect, the transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when the firearms are transported in conformance with applicable federal law.

**Comment.** Section 25645 continues former Section 12027(h) without substantive change.

For another exemption relating to common carriers, see Section 25630 (guard or messenger of common carrier, bank, or financial institution, when involved in shipping, transporting, or delivering money or other thing of value).

See Section 16520 (“firearm”).

**§ 25650. Honorably retired federal officer or agent**

25650. (a) Upon approval of the sheriff of the county in which the retiree resides, Section 25400 does not apply to, or affect, any honorably retired federal officer or agent of any federal law enforcement agency, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and any officer or agent of the Internal Revenue Service who was authorized to carry weapons while on duty, who was assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

(b) A retired federal officer or agent shall provide the sheriff with certification from the agency from which the officer or agent retired certifying that person’s service in the state, the nature of that person’s retirement, and indicating the agency’s concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

(c) Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that the retiree may carry a concealed firearm in accordance with this section. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

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

**Comment.** Section 25650 continues former Section 12027(i) without substantive change.

For an exemption relating to honorably retired peace officers, see Section 25450 (peace officer exemption).

For an honorably retired federal officer or agent carrying a loaded firearm, see Section 26020.

See Section 16520 (“firearm”).

**§ 25655. Person licensed to carry concealed pistol, revolver, or other firearm capable of being concealed upon the person**

25655. Section 25400 does not apply to, or affect, the carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized to carry that weapon in a concealed manner pursuant to Chapter 4 (commencing with Section 26150).

**Comment.** Section 25655 continues former Section 12027(j) without substantive change.

For an exemption relating to transportation of a firearm to a place designated by a person who is authorized to issue licenses to carry firearms, see Section 25545.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

Article 5. Concealed Carrying of Firearm as a Nuisance

**§ 25700. Unlawful concealed carrying of handgun as nuisance**

25700. (a) The unlawful carrying of any handgun in violation of Section 25400 is a nuisance and is subject to Sections 18000 and 18005.

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

(1) Any firearm in the possession of the Department of Fish and Game.

(2) Any firearm that was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto.

(3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public Resources Code.

**Comment.** With respect to unlawful concealed carrying of a handgun, subdivision (a) of Section 25700 continues former Section 12028(a) without substantive change.

With respect to unlawful concealed carrying of a handgun, subdivision (b) continues former Section 12028(e) without substantive change.

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

CHAPTER 3. CARRYING A LOADED FIREARM

Article 1. Armed Criminal Action

**§ 25800. Armed criminal action**

25800. (a) Every person who carries a loaded firearm with the intent to commit a felony is guilty of armed criminal action.

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

**Comment.** Section 25800 continues former Section 12023 without substantive change.

The definition of “loaded” for armed criminal action differs from the definition of “loaded” for the crime of carrying a loaded firearm in public. See Section 16840 (“loaded” and “loaded firearm”). For yet another definition of “loaded,” see Fish & Game Code § 2006 (“A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.”).

See also Section 16520 (“firearm”).

## Article 2. Crime of Carrying a Loaded Firearm in Public

### § 25850. Crime of carrying loaded firearm in public

25850. (a) A person is guilty of carrying a loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

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

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

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, as a felony.

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

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

(4) Where the person is not in lawful possession of the firearm, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

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

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

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

(d)(1) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 23515, or of any crime made

punishable under a provision listed in Section 16580, shall serve a term of at least three months in a county jail, or, if granted probation or if the execution or imposition of sentence is suspended, it shall be a condition thereof that the person be imprisoned for a period of at least three months.

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

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

(f) Nothing in this section, or in Article 3 (commencing with Section 25900) or Article 4 (commencing with Section 26000), shall preclude prosecution under Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

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

(1) When the person arrested has violated this section, although not in the officer's presence.

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

(h) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (c), if the peace officer has probable cause to believe that the person is carrying a loaded pistol, revolver, or other firearm capable of being concealed upon the person in violation of this section and that person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

**Comment.** Subdivision (a) of Section 25850 continues former Section 12031(a)(1) without substantive change.

Subdivision (b) continues former Section 12031(e) without substantive change.

Subdivision (c) continues former Section 12031(a)(2) without substantive change. Subdivision (d) continues former Section 12031(a)(6) without substantive change. For guidance in applying paragraphs (c)(1) and (d)(1), see Section 16015 (determining existing of prior conviction).

Subdivision (e) continues former Section 12031(a)(7) without substantive change.

Subdivision (f) continues former Section 12031(a)(4) without substantive change.

Subdivision (g) continues former Section 12031(a)(5)(A) without substantive change.

Subdivision (h) continues former Section 12031(a)(5)(B) without substantive change.

For a provision that required preparation of reports on the race, age, gender, and ethnicity of persons charged with violating the predecessor of this section, see former Section 12031(m) (1999 Cal. Stat. ch. 571, § 3). That provision is not continued, because by its terms it ceased to be operative on January 1, 2005.

The definition of “loaded” for the crime of carrying a loaded firearm in public differs from the definition of “loaded” for armed criminal action. See Section 16840 (“loaded” and “loaded firearm”). For yet another definition of “loaded,” see Fish & Game Code § 2006 (“A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.”).

See also Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 17030 (“prohibited area”).

### Article 3. Peace Officer Exemption to the Crime of Carrying a Loaded Firearm in Public

#### § 25900. Peace officer exemption

25900. As provided in this article, Section 25850 does not apply to any of the following:

(a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired.

(b) Any other duly appointed peace officer.

(c) Any honorably retired peace officer listed in subdivision (c) of Section 830.5.

(d) Any other honorably retired peace officer who during the course and scope of employment as a peace officer was authorized to, and did, carry a firearm.

(e) Any full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

(f) Any person summoned by any of these officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer.

**Comment.** Section 25900 continues the first sentence of the first paragraph of former Section 12031(b)(1) without substantive change.

For an exemption relating to honorably retired federal officers and agents, see Section 26020.

For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections 26300-26325.

See Sections 16520 (“firearm”), 16690 (“honorably retired”).

#### § 25905. Identification certificate for honorably retired peace officer

25905. (a) Any peace officer described in Section 25900 who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired.

(b) The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to Sections 25900, 25910, 25925, and this section.

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

(d) An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a loaded firearm.

**Comment.** Subdivision (a) of Section 25905 continues the second sentence of the first paragraph of former Section 12031(b)(1) without substantive change.

Subdivision (b) continues the third sentence of the first paragraph of former Section 12031(b)(1) without substantive change.

Subdivision (c) continues the second paragraph of former Section 12031(b)(1) without substantive change.

Subdivision (d) continues the second sentence of former Section 12031(b)(2) without substantive change.

For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections 26300-26325.

See Sections 16520 ("firearm"), 16690 ("honorably retired"), 16840 ("loaded" and "loaded firearm").

#### **§ 25910. Format of endorsement on identification certificate**

25910. (a) Except as provided in subdivision (b), no endorsement or renewal endorsement issued pursuant to Section 25915 shall be effective unless it is in the format set forth in subdivision (c) of Section 25460.

(b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this article, shall not be required to have an endorsement in the format set forth in subdivision (c) of Section 25460 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to 25915.

**Comment.** Section 25910 continues the third paragraph of former Section 12031(b)(1) without substantive change.

See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

#### **§ 25915. Renewal of privilege to carry loaded firearm**

25915. Every five years, a retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of the privilege to carry a loaded firearm.

**Comment.** Section 25915 continues the first sentence of former Section 12031(b)(2) without substantive change.

See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

**§ 25920. Denial or revocation of privilege to carry loaded firearm**

25920. (a) The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a loaded firearm.

(b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981, shall have the privilege to carry a loaded firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

**Comment.** Subdivision (a) of Section 25920 continues the third sentence of former Section 12031(b)(2) without substantive change.

Subdivision (b) continues the fourth sentence of former Section 12031(b)(2) without substantive change.

See Sections 16360 ("CCW"), 16520 ("firearm"), 16690 ("honorably retired"), 16840 ("loaded" and "loaded firearm").

**§ 25925. Maintaining privilege to carry loaded firearm**

25925. (a) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry a loaded firearm by this article shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually.

(b) The individual retired peace officer shall be responsible for maintaining eligibility to carry a loaded firearm.

(c) The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

**Comment.** Section 25925 continues former Section 12031(b)(3) without substantive change.

See Sections 16520 ("firearm"), 16690 ("honorably retired"), 16840 ("loaded" and "loaded firearm").

Article 4. Other Exemptions to the Crime of  
Carrying a Loaded Firearm in Public

**§ 26000. Members of military on duty**

26000. Section 25850 does not apply to members of the military forces of this state or of the United States engaged in the performance of their duties.

**Comment.** Section 26000 continues former Section 12031(b)(4) without substantive change.

**§ 26005. Target range or shooting club**

26005. Section 25850 does not apply to either of the following:

(a) Persons who are using target ranges for the purpose of practice shooting with a firearm.

(b) Members of shooting clubs while hunting on the premises of those clubs.

**Comment.** Section 26005 continues former Section 12031(b)(5) without substantive change.

See Section 16520 ("firearm").

**§ 26010. Person licensed to carry concealed pistol, revolver, or other firearm capable of being concealed upon the person**

26010. Section 25850 does not apply to the carrying of any pistol, revolver, or other firearm capable of being concealed upon the person by any person who is authorized to carry that weapon pursuant to Chapter 4 (commencing with Section 26150) of Division 5.

**Comment.** Section 26010 continues former Section 12031(b)(6) without substantive change. See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver.”)

**§ 26015. Armored vehicle guard**

26015. Section 25850 does not apply to any armored vehicle guard, as defined in Section 7582.1 of the Business and Professions Code, if either of the following conditions is satisfied:

(a) The guard was hired prior to January 1, 1977, and is acting within the course and scope of employment.

(b) The guard was hired on or after January 1, 1977, has received a firearms qualification card from the Department of Consumer Affairs, and is acting within the course and scope of employment.

**Comment.** Section 26015 continues former Section 12031(b)(7) without substantive change. An erroneous cross-reference to Business and Professions Code Section 7521 has been corrected.

**§ 26020. Honorably retired federal officer or agent**

26020. (a) Upon approval of the sheriff of the county in which the retiree resides, Section 25850 does not apply to any honorably retired federal officer or agent of any federal law enforcement agency, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and any officer or agent of the Internal Revenue Service who was authorized to carry weapons while on duty, who was assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

(b) A retired federal officer or agent shall provide the sheriff with certification from the agency from which the officer or agent retired certifying that person’s service in the state, the nature of that person’s retirement, and indicating the agency’s concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

(c) Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that the retiree may carry a loaded firearm in accordance with this section. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

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

**Comment.** Section 26020 continues former Section 12031(b)(8) without substantive change.

For an exemption relating to honorably retired peace officers, see Section 25900 (peace officer exemption).

For an honorably retired federal officer or agent carrying a concealed firearm, see Section 25650.

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

**§ 26025. Patrol special police officers, animal control officers, zookeepers, humane officers, and harbor police officers**

26025. Section 25850 does not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(a) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, satisfy all of the following requirements:

(1) They are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial.

(2) They are not less than 18 years of age or more than 40 years of age.

(3) They possess physical qualifications prescribed by the commission.

(4) They are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(b) Animal control officers or zookeepers, regularly compensated in that capacity by a governmental agency, when carrying weapons while acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons.

(c) Persons who are authorized to carry the weapons pursuant to Section 14502 of the Corporations Code, while actually engaged in the performance of their duties pursuant to that section.

(c) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

**Comment.** Section 26025 continues former Section 12031(c) without substantive change.

**§ 26030. Guards, messengers, private investigators, private patrol operators, and alarm company operators**

26030. (a) Section 25850 does not apply to any of the following who have been issued a certificate pursuant to subdivision (d):

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

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

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority, if they were hired prior to January 1, 1977.

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

(4) Private investigators licensed pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(5) Uniformed employees of private investigators licensed pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(6) Private patrol operators licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(7) Uniformed employees of private patrol operators licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(8) Alarm company operators licensed pursuant to Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

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

(10) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers, or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training.

(b) Nothing in paragraph (10) of subdivision (a) shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(c) A certificate under this section shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of the person's power as a peace officer, and who is employed while not on duty as a peace officer.

(d) The Department of Consumer Affairs may issue a certificate to any person referred to in this section, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and

use of firearms and a course of training in the exercise of the powers of arrest, which meet the standards prescribed by the department pursuant to Section 7583.5 of the Business and Professions Code.

**Comment.** The introductory clause of subdivision (a) of Section 26030 continues the first sentence of the introductory paragraph of former Section 12031(d) without substantive change.

Subdivision (a)(1) continues former Section 12031(d)(1) without substantive change.

Subdivision (a)(2)-(3) continues former Section 12031(d)(2) without substantive change.

With respect to licensed private investigators, subdivision (a)(4) continues former Section 12031(d)(3) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to uniformed employees of licensed private investigators, subdivision (a)(5) continues former Section 12031(d)(6) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to licensed private patrol operators, subdivision (a)(6) continues former Section 12031(d)(3) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to uniformed employees of licensed private patrol operators, subdivision (a)(7) continues former Section 12031(d)(6) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to licensed alarm company operators, subdivision (a)(8) continues former Section 12031(d)(3) without substantive change.

Subdivision (a)(9) continues former Section 12031(d)(4) without substantive change.

Subdivision (a)(10) continues the first sentence of former Section 12031(d)(5) without substantive change.

Subdivision (b) continues the second sentence of former Section 12031(d)(5) without substantive change.

Subdivision (c) continues the second sentence of the introductory paragraph of former Section 12031(d) without substantive change.

Subdivision (d) continues former Section 12033 without substantive change.

See Section 16520 (“firearm”).

#### **§ 26035. Loaded firearm at one’s place of business or own private property**

26035. Nothing in Section 25850 shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person’s place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

**Comment.** Section 26035 continues former Section 12031(h) without substantive change.

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

#### **§ 26040. Hunting**

26040. Nothing in Section 25850 shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting,

provided that the hunting at that place and time is not prohibited by the city council.

**Comment.** Section 26040 continues former Section 12031(i) without substantive change. See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

**§ 26045. Reasonable belief of immediate, grave danger to person or property**

26045. (a) Nothing in Section 25850 is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that any person or the property of any person is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property.

(b) A violation of Section 25850 is justifiable when a person who possesses a firearm reasonably believes that person is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person who has been found to pose a threat to the life or safety of the person who possesses the firearm. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person’s life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to a defendant charged with violating Section 25400 or committing another similar offense. Upon trial for violating Section 25850, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that the defendant was in grave danger.

(c) As used in this section, “immediate” means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

**Comment.** Subdivision (a) of Section 26045 continues the first sentence of former Section 12031(j)(1) without substantive change.

Subdivision (b) continues former Section 12031(j)(2) without substantive change.

Subdivision (c) continues the second sentence of former Section 12031(j)(1) without substantive change.

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

**§ 26050. Making lawful arrest**

26050. Nothing in Section 25850 is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

**Comment.** Section 26050 continues former Section 12031(k) without substantive change.

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

**§ 26055. Place of residence, including campsite**

26055. Nothing in Section 25850 shall prevent any person from having a loaded weapon, if it is otherwise lawful, at the person’s place of residence, including any temporary residence or campsite.

**Comment.** Section 26055 continues former Section 12031(l) without substantive change. See Section 16840 (“loaded” and “loaded firearm”).

**§ 26060. Rocket or other emergency or distress signaling device**

26060. Nothing in Section 25850 shall prevent any person from storing aboard any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile launcher, or similar device designed primarily for emergency or distress signaling purposes, or from possessing that type of a device while in a permitted hunting area or traveling to or from a permitted hunting area and carrying a valid California permit or license to hunt.

**Comment.** Section 26060 continues former Section 12031.1 without substantive change.

Article 5. Loaded Firearm in Motor Vehicle

**§ 26100. Loaded firearm in motor vehicle**

26100. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 25850 of this code or Section 2006 of the Fish and Game Code.

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

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

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

**Comment.** Section 26100 continues former Section 12034 without substantive change. See Section 16520 (“firearm”).

CHAPTER 4. LICENSE TO CARRY PISTOL, REVOLVER, OR OTHER FIREARM  
CAPABLE OF BEING CONCEALED UPON THE PERSON

**§ 26150. Issuance of license by sheriff**

26150. (a) When a person applies for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the sheriff of a county may issue a license to that person upon proof of all of the following:

- (1) The applicant is of good moral character.
- (2) Good cause exists for issuance of the license.

(3) The applicant is a resident of the county or a city within the county, or the applicant's principal place of employment or business is in the county or a city within the county and the applicant spends a substantial period of time in that place of employment or business.

(4) The applicant has completed a course of training as described in Section 26165.

(b) The sheriff may issue a license under subdivision (a) in either of the following formats:

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

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

**Comment.** Section 26150 continues former Section 12050(a)(1)(A) & (D) without substantive change.

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 17020 ("principal place of employment or business").

#### **§ 26155. Issuance of license by head of municipal police department**

26155. (a) When a person applies for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the chief or other head of a municipal police department of any city or city and county may issue a license to that person upon proof of all of the following:

(1) The applicant is of good moral character.

(2) Good cause exists for issuance of the license.

(3) The applicant is a resident of that city.

(4) The applicant has completed a course of training as described in Section 26165.

(b) The chief or other head of a municipal police department may issue a license under subdivision (a) in either of the following formats:

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

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

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

**Comment.** Subdivisions (a) and (b) of Section 26155 continue former Section 12050(a)(1)(B) without substantive change.

Subdivision (c) continues former Section 12050(g) without substantive change.  
See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 26160. Written policy**

26160. Each licensing authority shall publish and make available a written policy summarizing the provisions of Section 26150 and subdivisions (a) and (b) of Section 26155.

**Comment.** Section 26160 continues former Section 12050.2 without substantive change.

**§ 26165. Training course**

26165. (a) For new license applicants, the course of training for issuance of a license under Section 26150 or 26155 may be any course acceptable to the licensing authority, shall not exceed 16 hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm.

(b) Notwithstanding subdivision (a), the licensing authority may require a community college course certified by the Commission on Peace Officer Standards and Training, up to a maximum of 24 hours, but only if required uniformly of all license applicants without exception.

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

**Comment.** Section 26165 continues former Section 12050(a)(1)(E) without substantive change.

See Section 16520 (“firearm”).

**§ 26170. Issuance of license to person deputized or appointed as peace officer**

26170. (a) Upon proof of all of the following, the sheriff of a county, or the chief or other head of a municipal police department of any city or city and county, may issue to an applicant a license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person:

(1) The applicant is of good moral character.

(2) Good cause exists for issuance of the license.

(3) The applicant has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or other head of a municipal police department.

(b) Direct or indirect fees for the issuance of a license pursuant to this section may be waived.

(c) The fact that an applicant for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6

shall be considered only for the purpose of issuing a license pursuant to this section, and shall not be considered for the purpose of issuing a license pursuant to Section 26150 or 26155.

**Comment.** Section 26170 continues former Section 12050(a)(1)(C) without substantive change.

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

**§ 26175. License application**

26175. (a)(1) Applications for licenses, applications for amendments to licenses, amendments to licenses, and licenses under this article shall be uniform throughout the state, upon forms to be prescribed by the Attorney General.

(2) The Attorney General shall convene a committee composed of one representative of the California State Sheriffs’ Association, one representative of the California Police Chiefs’ Association, and one representative of the Department of Justice to review, and as deemed appropriate, revise the standard application form for licenses. The committee shall meet for this purpose if two of the committee’s members deem that necessary.

(b) The application shall include a section summarizing the statutory provisions of state law that result in the automatic denial of a license.

(c) The standard application form for licenses described in subdivision (a) shall require information from the applicant including, but not limited to, the name, occupation, residence and business address of the applicant, the applicant’s age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon.

(d) Applications for licenses shall be filed in writing, and signed by the applicant.

(e) Applications for amendments to licenses shall be filed in writing and signed by the applicant, and shall state what type of amendment is sought pursuant to Section 26215 and the reason for desiring the amendment.

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

(g) An applicant shall not be required to complete any additional application or form for a license, or to provide any information other than that necessary to complete the standard application form described in subdivision (a), except to clarify or interpret information provided by the applicant on the standard application form.

(h) The standard application form described in subdivision (a) is deemed to be a local form expressly exempt from the requirements of the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) Any license issued upon the application shall set forth the licensee’s name, occupation, residence and business address, the licensee’s age, height, weight, color of eyes and hair, and the reason for desiring a license to carry the weapon,

and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number, and the caliber. The license issued to the licensee may be laminated.

**Comment.** Subdivision (a) of Section 26175 continues the first, second, and third sentences of former Section 12051(a)(3)(A) without substantive change.

Subdivision (b) continues the fourth sentence of former Section 12051(a)(3)(A) without substantive change.

Subdivision (c) continues the first sentence of former Section 12051(a)(1) without substantive change.

Subdivision (d) continues the second sentence of former Section 12051(a)(1) without substantive change.

Subdivision (e) continues former Section 12051(a)(2) without substantive change.

Subdivision (f) continues former Section 12051(a)(3)(B) without substantive change.

Subdivision (g) continues former Section 12051(a)(3)(C) without substantive change.

Subdivision (h) continues former Section 12051(a)(3)(D) without substantive change.

Subdivision (i) continues the third and fourth sentences of former Section 12051(a)(1) without substantive change.

#### **§ 26180. False statement on application form**

26180. (a) Any person who files an application required by Section 26175 knowing that any statement contained therein is false is guilty of a misdemeanor.

(b) Any person who knowingly makes a false statement on the application regarding any of the following is guilty of a felony:

(1) The denial or revocation of a license, or the denial of an amendment to a license, issued pursuant to this article.

(2) A criminal conviction.

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

(4) The use of a controlled substance.

(5) A dishonorable discharge from military service.

(6) A commitment to a mental institution.

(7) A renunciation of United States citizenship.

**Comment.** Subdivision (a) of Section 26180 continues former Section 12051(b) without substantive change.

Subdivision (b) continues former Section 12051(c) without substantive change.

#### **§ 26185. Fingerprinting and Department of Justice report**

26185. (a)(1) The fingerprints of each applicant shall be taken and two copies on forms prescribed by the Department of Justice shall be forwarded to the department.

(2) Upon receipt of the fingerprints and the fee as prescribed in Section 26190, the department shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, including information as to whether the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(3) No license shall be issued by any licensing authority until after receipt of the report from the department.

(b) Notwithstanding subdivision (a), if the license applicant has previously applied to the same licensing authority for a license to carry firearms pursuant to this article and the applicant's fingerprints and fee have been previously forwarded to the Department of Justice, as provided by this section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 26225 and no additional application form or fingerprints shall be required.

(c) If the license applicant has a license issued pursuant to this article and the applicant's fingerprints have been previously forwarded to the Department of Justice, as provided in this section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 26225 and no additional fingerprints shall be required.

**Comment.** Section 26185 continues former Section 12052 without substantive change. See Section 16520 ("firearm").

#### **§ 26190. Application fees**

26190. (a)(1) Each applicant for a new license or for the renewal of a license shall pay at the time of filing the application a fee determined by the Department of Justice. The fee shall not exceed the application processing costs of the Department of Justice for the direct costs of furnishing the report required by Section 26185.

(2) After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

(3) The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice.

(b)(1) The licensing authority of any city, city and county, or county may charge an additional fee in an amount equal to the actual costs for processing the application for a new license, excluding fingerprint and training costs, but in no case to exceed one hundred dollars (\$100), and shall transmit the additional fee, if any, to the city, city and county, or county treasury.

(2) The first 20 percent of this additional local fee may be collected upon filing of the initial application. The balance of the fee shall be collected only upon issuance of the license.

(c) The licensing authority may charge an additional fee, not to exceed twenty-five dollars (\$25), for processing the application for a license renewal, and shall transmit an additional fee, if any, to the city, city and county, or county treasury.

(d) These local fees may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations.

(e)(1) In the case of an amended license pursuant to Section 26215, the licensing authority of any city, city and county, or county may charge a fee, not to exceed ten dollars (\$10), for processing the amended license.

(2) This fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations.

(3) The licensing authority shall transmit the fee to the city, city and county, or county treasury.

(f)(1) If psychological testing on the initial application is required by the licensing authority, the license applicant shall be referred to a licensed psychologist used by the licensing authority for the psychological testing of its own employees. The applicant may be charged for the actual cost of the testing in an amount not to exceed one hundred fifty dollars (\$150).

(2) Additional psychological testing of an applicant seeking license renewal shall be required only if there is compelling evidence to indicate that a test is necessary. The cost to the applicant for this additional testing shall not exceed one hundred fifty dollars (\$150).

(g) Except as authorized pursuant to this section, no requirement, charge, assessment, fee, or condition that requires the payment of any additional funds by the applicant may be imposed by any licensing authority as a condition of the application for a license.

**Comment.** Subdivision (a) of Section 26190 continues the first, second, and third sentences of the first paragraph of former Section 12054(a) without substantive change.

Subdivision (b) continues the fourth, fifth, and sixth sentences of the first paragraph of former Section 12054(a) without substantive change.

Subdivision (c) continues the first sentence of the second paragraph of former Section 12054(a) without substantive change.

Subdivision (d) continues the second sentence of the second paragraph of former Section 12054(a) without substantive change.

Subdivision (e) continues former Section 12054(b) without substantive change.

Subdivision (f) continues former Section 12054(c) without substantive change.

Subdivision (g) continues former Section 12054(d) without substantive change.

**§ 26195. No license for person prohibited from possessing, receiving, owning, or purchasing firearm**

26195. (a) A license under this article shall not be issued if the Department of Justice determines that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b)(1) A license under this article shall be revoked by the local licensing authority if at any time either the local licensing authority is notified by the Department of Justice that a licensee is prohibited by state or federal law from owning or purchasing firearms, or the local licensing authority determines that the

person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

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

(3) If the local licensing authority revokes the license, the Department of Justice shall be notified of the revocation pursuant to Section 26225. The licensee shall also be immediately notified of the revocation in writing.

**Comment.** Subdivision (a) of Section 26195 continues former Section 12050(d) without substantive change.

Subdivision (b) continues former Section 12050(e) without substantive change.

#### **§ 26200. Restrictions or conditions on license**

26200. (a) A license issued pursuant to this article may include any reasonable restrictions or conditions that the issuing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which the licensee may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

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

**Comment.** Subdivision (a) of Section 26200 continues former Section 12050(b) without substantive change.

Subdivision (b) continues former Section 12050(c) without substantive change.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

#### **§ 26205. Notification of applicant**

26205. The licensing authority shall give written notice to the applicant indicating if the license under this article is approved or denied. The licensing authority shall give this notice within 90 days of the initial application for a new license or a license renewal, or 30 days after receipt of the applicant’s criminal background check from the Department of Justice, whichever is later.

**Comment.** Section 26205 continues former Section 12052.5 without substantive change.

#### **§ 26210. Change of licensee’s address**

26210. (a) When a licensee under this article has a change of address, the license shall be amended to reflect the new address and a new license shall be issued pursuant to subdivision (b) of Section 26215.

(b) The licensee shall notify the licensing authority in writing within 10 days of any change in the licensee’s place of residence.

(c) If both of the following conditions are satisfied, a license to carry a concealed handgun may not be revoked solely because the licensee’s place of residence has changed to another county:

(1) The licensee has not breached any of the conditions or restrictions set forth in the license.

(2) The licensee has not become prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(d) Notwithstanding subdivision (c), if a licensee's place of residence was the basis for issuance of a license, any license issued pursuant to Section 26150 or 26155 shall expire 90 days after the licensee moves from the county of issuance.

(e) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately upon a change of the licensee's place of residence to another county.

**Comment.** Subdivision (a) of Section 26210 continues former Section 12050(f)(2) without substantive change.

Subdivision (b) continues former Section 12050(f)(4)(A) without substantive change.

Subdivisions (c) and (d) continue former Section 12050(f)(4)(B) without substantive change.

Subdivision (e) continues former Section 12050(f)(4)(C) without substantive change.

See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

#### § 26215. Amendment of license

26215. (a) A person issued a license pursuant to this article may apply to the licensing authority for an amendment to the license to do one or more of the following:

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

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

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

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

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

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

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

**Comment.** Subdivision (a) of Section 26215 continues former Section 12050(f)(1) without substantive change.

Subdivision (b) continues former Section 12050(f)(3) without substantive change.

Subdivision (c) continues former Section 12050(f)(5) without substantive change.

Subdivision (d) continues former Section 12050(f)(6) without substantive change.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 26220. Duration of license**

26220. (a) Except as otherwise provided in this section and in subdivision (c) of Section 26210, a license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed two years from the date of the license.

(b) If the licensee’s place of employment or business was the basis for issuance of a license pursuant to Section 26150, the license is valid for any period of time not to exceed 90 days from the date of the license. The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which the licensee resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.

(c) A license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

- (1) A judge of a California court of record.
- (2) A full-time court commissioner of a California court of record.
- (3) A judge of a federal court.
- (4) A magistrate of a federal court.

(d) A license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person’s employment pursuant to Section 831.5 if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period.

(e) A license issued pursuant to Section 26170 to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person’s appointment pursuant to Section 830.6 if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period.

**Comment.** Subdivision (a) of Section 26220 continues former Section 12050(a)(2)(A)(i) without substantive change.

Subdivision (b) continues former Section 12050(a)(2)(A)(ii) without substantive change.

Subdivision (c) continues former Section 12050(a)(2)(C) without substantive change.

Subdivision (d) continues former Section 12050(a)(2)(D) without substantive change.

Subdivision (e) continues former Section 12050(a)(2)(B) without substantive change.

**§ 26225. Duties of licensing authority and Attorney General**

26225. (a) A record of the following shall be maintained in the office of the licensing authority:

- (1) The denial of a license.
- (2) The denial of an amendment to a license.
- (3) The issuance of a license.
- (4) The amendment of a license.
- (5) The revocation of a license.

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

- (1) The denial of a license.
- (2) The denial of an amendment to a license.
- (3) The issuance of a license.
- (4) The amendment of a license.
- (5) The revocation of a license.

(c)(1) Commencing on or before January 1, 2000, and annually thereafter, each licensing authority shall submit to the Attorney General the total number of licenses issued to peace officers pursuant to Section 26170, and to judges pursuant to Section 26150 or 26155.

(2) The Attorney General shall collect and record the information submitted pursuant to this subdivision by county and licensing authority.

**Comment.** Section 26225 continues former Section 12053 without substantive change.

CHAPTER 5. RETIRED PEACE OFFICER CARRYING  
CONCEALED AND LOADED FIREARM

**§ 26300. Requirements for retired peace officer to carry concealed and loaded firearm**

26300. (a) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate has not been stamped as specified in Section 25470.

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

(c) Any peace officer not listed in subdivision (a) or (b) who was authorized to, and did, carry a firearm during the course and scope of employment as a peace officer shall have an endorsement on the officer's identification certificate stating that the issuing agency approves the officer's carrying of a concealed and loaded firearm.

**Comment.** Subdivision (a) of Section 26300 continues former Section 12027.1(a)(1)(A)(ii) without substantive change.

Subdivision (b) continues former Section 12027.1(a)(1)(A)(i) without substantive change.

Subdivision (c) continues former Section 12027.1(a)(1)(A)(iii) without substantive change.

Section 26300 and the other provisions in this article provide guidance on a retired peace officer carrying a concealed and loaded firearm. For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.

See Section 16520 (“firearm”).

**§ 26305. Grounds for revocation or denial of privilege to carry concealed and loaded firearm**

26305. (a) No peace officer who is retired after January 1, 1989, because of a psychological disability shall be issued an endorsement to carry a concealed and loaded firearm pursuant to this article.

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

(c) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be revoked or denied by the issuing agency only upon a showing of good cause. Good cause shall be determined at a hearing, as specified in Section 26320.

**Comment.** Subdivision (a) of Section 26305 continues former Section 12027.1(e) without substantive change.

Subdivision (b) continues former Section 12027.1(a)(2) without substantive change.

Subdivision (c) continues former Section 12027.1(a)(1)(B) & (b)(1) without substantive change.

See Section 16520 (“firearm”).

**§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm**

26310. (a) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be denied prior to a hearing.

(b) If a hearing is not conducted prior to the denial of an endorsement, a retired peace officer, within 15 days of the denial, shall have the right to request a hearing. A retired peace officer who fails to request a hearing pursuant to this section shall forfeit the right to a hearing.

**Comment.** Section 26310 continues former Section 12027.1(b)(3) without substantive change.

See Section 16520 (“firearm”).

**§ 26315. Procedure for revocation of privilege to carry concealed and loaded firearm**

26315. (a) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be revoked only after a hearing, as specified in Section 26320.

(b) Any retired peace officer whose identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement is to be revoked shall receive notice of the hearing. Notice of the hearing shall be served either personally on the retiree or sent by first-class mail, postage prepaid, return receipt requested to the retiree’s last known place of residence.

(c) Upon the date the agency receives the signed registered receipt or upon the date the notice is served personally on the retiree, the retiree shall have 15 days to respond to the notification. A retired peace officer who fails to respond to the notice of the hearing shall forfeit the right to respond.

**Comment.** Section 26315 continues former Section 12027.1(b)(2) without substantive change. See Section 16520 (“firearm”).

**§ 26320. Hearing**

26320. (a) Any hearing conducted under this article shall be held before a three-member hearing board. One member of the board shall be selected by the agency and one member shall be selected by the retired peace officer or his or her employee organization. The third member shall be selected jointly by the agency and the retired peace officer or his or her employee organization.

(b) Any decision by the board shall be binding on the agency and the retired peace officer.

**Comment.** Section 26320 continues former Section 12027.1(d) without substantive change.

**§ 26325. Procedure when privilege to carry concealed and loaded firearm is revoked**

26325. (a) A retired peace officer, when notified of the revocation of the privilege to carry a concealed and loaded firearm, after the hearing, or upon forfeiting the right to a hearing, shall immediately surrender to the issuing agency the officer’s identification certificate.

(b) The issuing agency shall reissue a new identification certificate without an endorsement.

(c) Notwithstanding subdivision (b), if the peace officer retired prior to January 1, 1981, and was at the time of retirement a peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5, the issuing agency shall stamp on the identification certificate “No CCW privilege.”

**Comment.** Section 26325 continues former Section 12027.1(c) without substantive change. See Sections 16360 (“CCW”), 16520 (“firearm”).

**DIVISION 6. SALE, LEASE, OR TRANSFER OF FIREARMS**

**CHAPTER 1. LICENSE REQUIREMENT FOR SALE, LEASE,  
OR TRANSFER OF FIREARMS**

**Article 1. License Requirement and Miscellaneous Exceptions**

**§ 26500. License requirement**

26500. (a) No person shall sell, lease, or transfer firearms unless the person has been issued a license pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(b) Any person violating this article is guilty of a misdemeanor.

**Comment.** Section 26500 continues former Section 12070(a) without substantive change. See Section 16520 (“firearm”).

**§ 26505. Exception when person liquidates personal firearm collection or acts pursuant to operation of law, court order, or Enforcement of Judgments Law**

26505. Section 26500 does not include the sale, lease, or transfer of any firearm by any of the following:

- (a) A person acting pursuant to operation of law.
- (b) A person acting pursuant to a court order.
- (c) A person acting pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure).
- (d) A person who liquidates a personal firearm collection to satisfy a court judgment.

**Comment.** Section 26505 continues former Section 12070(b)(1) without substantive change. See Sections 16520 (“firearm”), 16960 (“operation of law”).

**§ 26510. Exception for person acting pursuant to nuisance law**

26510. Section 26500 does not include a person acting pursuant to subdivision (f) of Section 186.22a or Section 18000 or 18005.

**Comment.** Section 26510 continues former Section 12070(b)(2) without substantive change. An erroneous cross-reference to Section 186.22a(e) has been corrected by replacing it with a cross-reference to Section 186.22a(f).

**§ 26515. Exception for person who obtains title to firearm as surviving spouse or by intestate succession or bequest**

26515. Section 26500 does not include the sale, lease, or transfer of a firearm if both of the following conditions are satisfied:

- (a) The sale, lease, or transfer is made by a person who obtains title to the firearm by intestate succession or bequest, or as a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.
- (b) The person disposes of the firearm within 60 days of receipt of the firearm.

**Comment.** Section 26515 continues former Section 12070(b)(3) without substantive change. See Section 16520 (“firearm”).

**§ 26520. Exception for infrequent sale, lease, or transfer of firearms**

26520. (a) Section 26500 does not include the infrequent sale, lease, or transfer of firearms.

(b) As used in this section, “infrequent” has the meaning provided in Section 16730.

**Comment.** Section 26520 continues former Section 12070(b)(4) without substantive change. See Section 16520 (“firearm”).

**§ 26525. Exception for sale, lease, or transfer of certain used firearms at gun shows, with program to be administered by Department of Justice**

26525. (a) Section 26500 does not include the sale, lease, or transfer of used firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2, by a person other than a licensee or dealer, provided the person has a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice, as specified in Section 26710, and provided all the sales, leases, or transfers fully comply with Section 27545. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

(b) The Department of Justice shall adopt regulations to administer this program and shall recover the full costs of administration from fees assessed applicants.

**Comment.** Subdivision (a) of Section 26525 continues the first paragraph of former Section 12070(b)(5) without substantive change. A person who meets the description in subdivision (a) is known as a Gun Show Trader. See Section 16620 (“Gun Show Trader”).

Subdivision (b) continues the third paragraph of former Section 12070(b)(5) without substantive change.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17310 (“used firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26530. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers**

26530. Section 26500 does not include sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 26530 continues former Section 12070(b)(6) without substantive change. See Section 16520 (“firearm”).

**§ 26535. Exception for sale, delivery, or transfer by licensed importer or manufacturer to dealer or wholesaler**

26535. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies both of the following conditions:

(a) It is made by an importer or manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) It is made to a dealer or wholesaler.

**Comment.** Section 26535 continues former Section 12070(b)(7) without substantive change. See Sections 16520 (“firearm”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26540. Exception for deliveries and transfers made pursuant to specified laws relating to weapons surrendered to, seized by, or in custody of law enforcement**

26540. Section 26500 does not include deliveries and transfers of firearms made pursuant to Sections 18000 and 18005, pursuant to Division 4 (commencing with Section 18250) of Title 2, or pursuant to Sections 34005 and 34010.

**Comment.** Section 26540 continues former Section 12070(b)(8) without substantive change. See Section 16520 (“firearm”).

**§ 26545. Exception for loan made for purpose of target shooting**

26545. Section 26500 does not include the loan of a firearm for the purposes of shooting at targets, if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

**Comment.** Section 26545 continues former Section 12070(b)(9) without substantive change. See Section 16520 (“firearm”).

**§ 26550. Exception for sale, delivery, or transfer by licensed manufacturer, importer, or wholesaler to licensed person residing outside California**

26550. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies all of the following requirements:

(a) It is made by a manufacturer, importer, or wholesaler licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) It is made to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 26550 continues former Section 12070(b)(10) without substantive change. See Sections 16520 (“firearm”), 17340 (“wholesaler”).

**§ 26555. Exception for sale, delivery, or transfer by licensed person residing outside California to manufacturer, importer, or wholesaler**

26555. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies all of the following requirements:

(a) It is made by a person who resides outside this state and is licensed outside this state pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) It is made to a manufacturer, importer, or wholesaler.

(c) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 26555 continues former Section 12070(b)(11) without substantive change. See Sections 16520 (“firearm”), 17340 (“wholesaler”).

**§ 26560. Exception for sale, delivery, or transfer by wholesaler to dealer**

26560. Section 26500 does not include any sale, delivery, or transfer of firearms by a wholesaler to a dealer.

**Comment.** Section 26560 continues former Section 12070(b)(12) without substantive change. See Sections 16520 (“firearm”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26565. Exception for sale, delivery, or transfer by nonresident to licensed dealer**

26565. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies all of the following conditions:

(a) It is made by a person who resides outside this state.

(b) It is made to a person licensed pursuant to Sections 26700 to 26915, inclusive.

(c) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 26565 continues former Section 12070(b)(13) without substantive change. See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26570. Exception for sale, delivery, or transfer by licensed nonresident to dealer**

26570. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies all of the following conditions:

(a) It is made by a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) It is made to a dealer.

(c) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 26570 continues former Section 12070(b)(14) without substantive change. See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26575. Exception for sale, delivery, or transfer of unloaded firearm between wholesalers**

26575. Section 26500 does not include the sale, delivery, or transfer of an unloaded firearm by one wholesaler to another wholesaler if that firearm is intended as merchandise in the receiving wholesaler’s business.

**Comment.** Section 26575 continues former Section 12070(b)(15) without substantive change. See Sections 16520 (“firearm”), 17340 (“wholesaler”).

**§ 26580. Exception for firearm used solely as prop**

26580. Section 26500 does not include the loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges for use solely as a prop for a motion picture, television, or video production or entertainment or theatrical event.

**Comment.** Section 26580 continues former Section 12070(b)(16) without substantive change. See Section 16520 (“firearm”).

**§ 26585. Exception for delivery of unloaded curio or relic by licensed collector to dealer**

26585. Section 26500 does not include the delivery of an unloaded firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, if the delivery satisfies all of the following conditions:

(a) It is made by a person licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) It is made by a person with a current certificate of eligibility issued pursuant to Section 26710.

(c) It is made to a dealer.

**Comment.** Section 26585 continues former Section 12070(b)(17) without substantive change. See Section 16520 (“firearm”).

**§ 26590. Exception for delivery, transfer, or return of firearm made by court or law enforcement agency pursuant to Chapter 2 of Division 11**

26590. Section 26500 does not apply to deliveries, transfers, or returns of firearms made by a court or a law enforcement agency pursuant to Chapter 2 (commencing with Section 33850) of Division 11.

**Comment.** Section 26590 continues former Section 12021.3(i)(3) without substantive change. See Section 16520 (“firearm”).

Article 2. Exceptions Relating to Law Enforcement

**§ 26600. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

26600. (a) Section 26500 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

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

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

**Comment.** Section 26600 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12070 (through its reference to “the preceding provisions of this article”).

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

**§ 26605. Exception for loan of firearm to peace officer employee for use in performing official duties**

26605. Section 26500 does not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

**Comment.** Section 26605 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12070 (through its reference to “the preceding provisions of this article”).

See Section 16520 (“firearm”).

**§ 26610. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

26610. (a) Section 26500 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

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

**Comment.** Section 26610 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12070 (through its reference to “the preceding provisions of this article”).

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

**§ 26615. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

26615. (a) Section 26500 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

**Comment.** Section 26615 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12070 (through its reference to “the preceding provisions of this article”).

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

CHAPTER 2. ISSUANCE, FORFEITURE, AND CONDITIONS OF LICENSE TO SELL,  
LEASE, OR TRANSFER FIREARMS AT RETAIL

Article 1. License to Sell, Lease, or Transfer Firearms at Retail

**§ 26700. “Dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”**

26700. As used in this division, and in any other provision listed in Section 16580, “dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive” means a person who satisfies all of the following requirements:

- (a) Has a valid federal firearms license.
- (b) Has any regulatory or business license, or licenses, required by local government.
- (c) Has a valid seller’s permit issued by the State Board of Equalization.
- (d) Has a certificate of eligibility issued by the Department of Justice pursuant to Section 26710.
- (e) Has a license issued in the format prescribed by subdivision (c) of Section 26705.
- (f) Is among those recorded in the centralized list specified in Section 26715.

**Comment.** Section 26700 continues former Section 12071(a)(1) without substantive change. See also Section 16790 (“licensed gun dealer”).

**§ 26705. Issuance of license to sell firearms at retail**

26705. (a) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(b) No license shall be granted to any applicant who fails to provide a copy of the applicant's valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in Section 26710.

(c) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(1) In the form prescribed by the Attorney General.

(2) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(3) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(d) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

**Comment.** Subdivision (a) of Section 26705 continues former Section 12071(a)(2) without substantive change.

Subdivision (b) continues former Section 12071(a)(3) without substantive change.

Subdivision (c) continues former Section 12071(a)(6) without substantive change.

Subdivision (d) continues former Section 12071(a)(7) without substantive change.

For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

See Section 16520 ("firearm").

**§ 26710. Certificate of eligibility**

26710. (a) A person may request a certificate of eligibility from the Department of Justice.

(b) The Department of Justice shall examine its records and records available to the department in the National Instant Criminal Background Check System in order to determine if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(c) The department shall issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited by state or federal law from possessing firearms.

(d) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

**Comment.** Subdivisions (a)-(c) of Section 26710 continue former Section 12071(a)(4) without substantive change.

Subdivision (d) continues former Section 12071(a)(5) without substantive change.

For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

See Section 16520 (“firearm”).

**§ 26715. Centralized list of persons licensed pursuant to Section 26700(a)-(e)**

26715. (a) Except as otherwise provided in paragraphs 1 and 3 of subdivision (b), the Department of Justice shall keep a centralized list of all persons licensed pursuant to subdivisions (a) to (e), inclusive, of Section 26700.

(b)(1) The department may remove from this list any person who knowingly or with gross negligence violates a provision listed in Section 16575.

(2) The department shall remove from the centralized list any person whose federal firearms license has expired or has been revoked.

(3) Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer’s business is located.

(c) Information compiled from the list shall be made available, upon request, for the following purposes only:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Article 1 (commencing with Section 27200) of Chapter 3, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subdivision (b) of Section 26805.

(d) Information provided pursuant to subdivision (c) shall be limited to information necessary to corroborate an individual’s current license status as being one of the following:

(1) A person licensed pursuant to subdivisions (a) to (e), inclusive, of Section 26700.

(2) A person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and who is not subject to the requirement of being licensed pursuant to subdivisions (a) to (e), inclusive, of Section 26700.

**Comment.** Subdivision (a) of Section 26715 continues the first sentence of former Section 12071(e)(1) without substantive change.

Subdivision (b)(1) continues the second sentence of former Section 12071(e)(1) without substantive change.

Subdivision (b)(2) continues former Section 12071(e)(2) without substantive change.

Subdivision (b)(3) continues the third sentence of former Section 12071(e)(1) without substantive change.

Subdivision (c) continues former Section 12071(e)(3) without substantive change.

Subdivision (d) continues former Section 12071(e)(4) without substantive change.

For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

See Section 16520 (“firearm”).

#### **§ 26720. Inspections by Department of Justice**

26720. (a) The Department of Justice may inspect dealers to ensure compliance with the provisions listed in Section 16575.

(b) The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in Section 26715, including the cost of inspections.

(c) Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department’s fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

**Comment.** Section 26720 continues former Section 12071(f) without substantive change.

For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

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

#### **§ 26725. Information to be maintained and made available by Department of Justice**

26725. The Department of Justice shall maintain and make available upon request information concerning all of the following:

(a) The number of inspections conducted and the amount of fees collected pursuant to Section 26720.

(b) A listing of exempted jurisdictions, as defined in Section 26720.

(c) The number of dealers removed from the centralized list defined in 26715.

(d) The number of dealers found to have violated a provision listed in Section 16575 with knowledge or gross negligence.

**Comment.** Section 26725 continues former Section 12071(g) without substantive change.

For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

## Article 2. Grounds for Forfeiture of License

### § 26800. Forfeiture of license

26800. A license under this chapter is subject to forfeiture for a breach of any of the prohibitions and requirements of this article, except those stated in the following provisions:

- (a) Subdivision (c) of Section 26890.
- (b) Subdivision (d) of Section 26890.
- (c) Subdivision (b) of Section 26900.

**Comment.** Section 26800 continues the introductory clause of former Section 12071(b) without substantive change.

### § 26805. Place of conducting business

26805. (a) Except as provided in subdivisions (b) and (c), the business of a licensee shall be conducted only in the buildings designated in the license.

(b)(1) A person licensed pursuant to Sections 26700 and 26705 may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subdivision shall be entitled to conduct business as authorized herein at any gun show or event in the state, without regard to the jurisdiction within this state that issued the license pursuant to Sections 26700 and 26705, provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subdivision (a) of Section 26815, and (ii) all applicable local laws, regulations, and fees, if any.

(2) A person conducting business pursuant to this subdivision shall publicly display the person's license issued pursuant to Sections 26700 and 26705, or a facsimile thereof, at any gun show or event, as specified in this subdivision.

(c)(1) A person licensed pursuant to Sections 26700 and 26705 may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in Sections 26955, 27655, 27900, and 27905, subject to the prohibitions and restrictions contained in those sections.

(2) A person licensed pursuant to Sections 26700 and 26705 may also accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in Section 27900.

(d) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (1) The building designated in the license.
- (2) The places specified in subdivision (b) or (c).

(3) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

**Comment.** Section 26805 continues former Section 12071(b)(1) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### **§ 26810. Display of license**

26810. A person’s license under this chapter, or a copy thereof certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

**Comment.** Section 26810 continues former Section 12071(b)(2) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

#### **§ 26815. Waiting period and other delivery restrictions**

26815. No firearm shall be delivered:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28220, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person’s identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from processing, owning, purchasing, or receiving a firearm. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

**Comment.** Section 26815 continues former Section 12071(b)(3) without substantive change.

For exceptions to this provision, see Article 3 (commencing with Section 26950), Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16190 (“application to purchase”), 16400 (“clear evidence of the person’s identity and age”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26820. Display of handgun or imitation or placard advertising handgun**

26820. No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

**Comment.** Section 26820 continues former Section 12071(b)(4) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 26825. Prompt and proper processing of private party firearms transactions**

26825. A licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Chapter 5 (commencing with Section 28050).

**Comment.** Section 26825 continues former Section 12071(b)(5) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

**§ 26830. Compliance with specified laws**

26830. A licensee shall comply with all of the following:

- (a) Sections 27500 to 27535, inclusive.
- (b) Section 27555.
- (c) Section 28100.
- (d) Article 2 (commencing with Section 28150) of Chapter 6.
- (e) Article 3 (commencing with Section 28200) of Chapter 6.
- (f) Section 30300.

**Comment.** Section 26830 continues former Section 12071(b)(6) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26835. Posting of warnings**

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

- (a) “IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM

IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(b) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(c) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(d) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(e) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(f) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

**Comment.** Section 26835 continues former Section 12071(b)(7) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16810 (“licensed premises,” “licensee’s business premises,” and “licensee’s place of business”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26840. Presentation of basic firearms safety certificate or handgun safety certificate to dealer**

26840. (a) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(b) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

**Comment.** Subdivision (a) of Section 26840 continues former Section 12071(b)(8)(A) without change.

Subdivision (b) continues former Section 12071(b)(8)(B) without change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26845. No handgun delivery without proof of California residency**

26845. (a) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that the person is a California resident.

(b) Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice.

(c) The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

**Comment.** Section 26845 continues former Section 12071(b)(8)(C) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

**§ 26850. Safe handling demonstration with handgun**

26850. (a) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun.

(b) The safe handling demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed

in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(1) If the handgun is a semiautomatic pistol, the steps listed in Section 26853.

(2) If the handgun is a double-action revolver, the steps listed in Section 26856.

(3) If the handgun is a single-action revolver, the steps listed in Section 26859.

(c) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(d) The firearms dealer shall sign and date an affidavit stating that the requirements of subdivisions (a) and (b) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(e) The recipient shall perform the safe handling demonstration for a department-certified instructor.

(f) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(g) Department-certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (b) of Section 31635.

(h) The persons who are exempt from the requirements of subdivision (a) of Section 31615, pursuant to Section 31700, are also exempt from performing the safe handling demonstration.

**Comment.** Subdivisions (a) and (b) of Section 26850, in combination with Sections 26853, 26856, and 26859, continue former Section 12071(b)(8)(D) without substantive change.

Subdivision (c) continues former Section 12071(b)(8)(E) without substantive change.

Subdivision (d) continues former Section 12071(b)(8)(F) without substantive change.

Subdivision (e) continues former Section 12071(b)(8)(G) without substantive change.

Subdivision (f) continues former Section 12071(b)(8)(H) without substantive change.

Subdivision (g) continues former Section 12071(b)(8)(I) without substantive change.

Subdivision (h) continues former Section 12071(b)(8)(J) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### **§ 26853. Steps in safe handling demonstration for semiautomatic pistol**

26853. To comply with Section 26850, a safe handling demonstration for a semiautomatic pistol shall include all of the following steps:

(a) Remove the magazine.

(b) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(c) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(d) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(e) Load one bright orange, red, or other readily identifiable dummy round into the magazine. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(f) Insert the magazine into the magazine well of the firearm.

(g) Manipulate the slide release or pull back and release the slide.

(h) Remove the magazine.

(i) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(j) Lock the slide back to eject the bright orange, red, or other readily identifiable dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(k) Apply the safety, if applicable.

(l) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearm safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in subdivision (b) of Section 32105 or is subject to subdivision (c) of Section 32105.

**Comment.** In combination with Section 26850(a)-(b), Section 26853 continues former Section 12071(b)(8)(D) without substantive change, as it pertained to a semiautomatic pistol.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

#### **§ 26856. Steps in safe handling demonstration for double-action revolver**

26856. To comply with Section 26850, a safe handling demonstration for a double-action revolver shall include all of the following steps:

(a) Open the cylinder.

(b) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(c) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(d) While maintaining muzzle awareness and trigger discipline, load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position. If

no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(e) Close the cylinder.

(f) Open the cylinder and eject the round.

(g) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(h) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearm safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in subdivision (b) of Section 32105 or is subject to subdivision (c) of Section 32105.

**Comment.** In combination with Section 26850(a)-(b), Section 26856 continues former Section 12071(b)(8)(D) without substantive change, as it pertained to a double-action revolver.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

#### **§ 26859. Steps in safe handling demonstration for single-action revolver**

26859. To comply with Section 26850, a safe handling demonstration for a single-action revolver shall include all of the following steps:

(a) Open the loading gate.

(b) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(c) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(d) Load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(e) Open the loading gate and unload the revolver.

(f) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(g) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearm safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in subdivision (b) of Section 32105 or is subject to subdivision (c) of Section 32105.

**Comment.** In combination with Section 26850(a)-(b), Section 26859 continues former Section 12071(b)(8)(D) without substantive change, as it pertained to a single-action revolver.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

**§ 26865. Providing Department of Justice pamphlet to purchaser, transferee, or lessee of firearm**

26865. Commencing July 1, 1992, a licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 34205, and may add the cost of the pamphlet, if any, to the sales price of the firearm.

**Comment.** Section 26865 continues former Section 12071(b)(9) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

**§ 26870. No collusion**

26870. A licensee shall not commit an act of collusion as defined in Section 27550.

**Comment.** Section 26870 continues former Section 12071(b)(10) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26875. Posting of charges and fees**

26875. A licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(a) All charges required by governmental agencies for processing firearm transfers required by Section 12806, Chapter 5 (commencing with Section 28050), and Article 3 (commencing with Section 28200) of Chapter 6.

(b) All fees that the licensee charges pursuant to Section 12806 and Chapter 5 (commencing with Section 28050).

**Comment.** Section 26875 continues former Section 12071(b)(11) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16520 (“firearm”), 16810 (“licensed premises,” “licensee’s business premises,” and “licensee’s place of business”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26880. Misrepresentation regarding amount of fees charged by governmental agency**

26880. A licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Section 12806, Chapter 5 (commencing with Section 28050), and Article 3 (commencing with Section 28200) of Chapter 6.

**Comment.** Section 26880 continues former Section 12071(b)(12) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26885. Location of inventory and reporting of loss or theft of firearm**

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee’s business premises are located:

(1) Any firearm that is merchandise of the licensee.

(2) Any firearm that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050).

(3) Any firearm kept at the licensee’s place of business.

**Comment.** Section 26885 continues former Section 12071(b)(13) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16520 (“firearm”), 16810 (“licensed premises,” “licensee’s business premises,” and “licensee’s place of business”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26890. Storage and securing of inventory firearms**

26890. (a) Except as provided in subdivisions (b) and (c) of Section 26805, any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

(1) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee’s business premises.

(2) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(3) Store the firearm in a locked fireproof safe or vault in the licensee’s business premises.

(b) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in subdivision (a).

(c) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of subdivision (a) if the

licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(d) Subdivision (a) or (b) shall not apply to a licensee organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of the Corporations Code, or as a mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

**Comment.** Subdivision (a) of Section 26890 continues former Section 12071(b)(14) without substantive change.

Subdivision (b) continues former Section 12071(b)(15) without substantive change.

Subdivision (c) continues former Section 12071(d) without substantive change.

Subdivision (d) continues former Section 12071(h) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16810 ("licensed premises," "licensee's business premises," and "licensee's place of business"), 17110 ("secure facility" for firearm storage by dealer), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

#### **§ 26895. Providing copy of license to Department of Justice**

26895. Commencing January 1, 1994, a licensee shall, upon the issuance or renewal of a license, submit a copy of it to the Department of Justice.

**Comment.** Section 26895 continues former Section 12071(b)(16) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

#### **§ 26900. Maintenance and inspection of firearm transaction record**

26900. (a) A licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearm transaction record, as defined in Section 16550.

(b) A licensee shall be in compliance with the provisions of subdivision (a) if the licensee maintains and makes available for inspection during business hours to any

peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

**Comment.** Subdivision (a) of Section 26900 continues former Section 12071(b)(17) without substantive change.

Subdivision (b) continues former Section 12071(c)(4)(B) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### **§ 26905. Reporting of handgun acquisitions**

26905. (a) On the date of receipt, a licensee shall report to the Department of Justice, in a format prescribed by the department, the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(b) The provisions of this section shall not apply to any of the following transactions:

(1) A transaction subject to the provisions of Sections 26960 and 27660.

(2) The dealer acquired the firearm from a wholesaler.

(3) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(4) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(5) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

**Comment.** Section 26905 continues former Section 12071(b)(18) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### **§ 26910. Reporting of information on firearm that is not timely delivered**

26910. A licensee shall forward, in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not

delivered within the time period set forth in Section 478.102(c) of Title 27 of the Code of Federal Regulations.

**Comment.** Section 26910 continues former Section 12071(b)(19) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

**§ 26915. Agent who handles, sells, or delivers firearms**

26915. (a) A firearms dealer may require any agent who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d)(1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents.

(g) For purposes of this article, “secured” means a firearm that is made inoperable in one or more of the following ways:

(1) The firearm is inoperable because it is secured by a firearm safety device listed on the department’s roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.

(2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.

(3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.

(4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

**Comment.** Subdivisions (a) through (f) of Section 26915 continue former Section 12071(b)(20)(A)-(F) without substantive change.

Subdivision (g) continues former Section 12071(b)(20)(G)(ii) without substantive change.

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).

See Sections 16130 (“agent”), 16520 (“firearm”), 16610 (“gun safe”), 16870 (“long-gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

### Article 3. Exceptions Extending Only to Waiting Period

#### **§ 26950. Waiting period exception for sale, delivery, or transfer to full-time paid peace officer authorized to carry firearms in performance of duties**

26950. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, or transfer of firearms made to any person who satisfies both of the following requirements:

(1) The person is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) The officer’s employer has authorized the officer to carry firearms while in the performance of duties.

(b)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of duties, and authorizing the purchase or transfer.

(2) The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification.

(3) The dealer shall keep the certification with the record of sale.

(4) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

**Comment.** Section 26950 continues former Section 12078(a)(1) without substantive change, as that provision applied to the waiting period in former Section 12071.

For other exceptions relating to law enforcement, see Sections 27050-27065.

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

**§ 26955. Waiting period exception for dealer who delivers firearm other than handgun at auction or similar event conducted by nonprofit mutual or public benefit corporation**

26955. (a) The waiting period described in Section 26815 does not apply to a dealer who delivers a firearm, other than a handgun, at an auction or similar event described in Section 27900, as authorized by subdivision (c) of Section 26805.

(b) Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28165.

(c) If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28165.

**Comment.** Section 26955 continues former Section 12078(g)(3) without substantive change, as that provision applied to the waiting period in former Section 12071.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26960. Waiting period exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self or another dealer**

26960. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, or transfer of a handgun by a dealer in either of the following situations:

(1) The dealer is delivering the firearm to another dealer, the firearm is not intended as merchandise in the receiving dealer’s business, and the requirements of subdivisions (b) and (c) are satisfied.

(2) The dealer is delivering the firearm to himself or herself, the firearm is not intended as merchandise in the dealer’s business, and the requirements of subdivision (c) are satisfied.

(b) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that the receiving dealer is licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800). This shall be done by complying with Section 27555.

(c)(1) Regardless of whether the dealer is selling, delivering, or transferring the firearm to another dealer or to himself or herself, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

(2) Where electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

**Comment.** Section 26960 continues former Section 12078(n) without substantive change, as that provision applied to the waiting period in former Section 12071.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26965. Waiting period exception for sale, delivery, or transfer to holder of special weapons permit**

26965. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of Division 10 of this title.

(b) On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165.

**Comment.** Section 26965 continues former Section 12078(r) without substantive change, as that provision applied to the waiting period in former Section 12071.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 26970. Waiting period exception for sale, delivery, loan, or transfer of curio or relic by dealer to licensed collector**

26970. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, loan, or transfer of a firearm if all of the following conditions are satisfied:

(1) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(2) The sale, delivery, loan, or transfer is made by a dealer.

(3) The sale, delivery, loan, or transfer is made to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) The licensed collector has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(b) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

**Comment.** Section 26970 continues former Section 12078(t)(1) without substantive change, as that provision applied to the waiting period in former Section 12071.

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

#### Article 4. Exceptions Extending Only to Grounds for Forfeiture of License

##### **§ 27000. License forfeiture exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit**

27000. (a) Article 2 (commencing with Section 26800) does not apply to the loan of a firearm if all of the following conditions are satisfied:

- (1) The firearm is unloaded.
- (2) The loan is made by a dealer.
- (3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.
- (4) The firearm is loaned solely for use as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

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

**Comment.** Section 27000 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12071(b).

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

##### **§ 27005. License forfeiture exception for short-term loan of unloaded firearm by dealer to consultant-evaluator**

27005. (a) Article 2 (commencing with Section 26800) does not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the date of delivery.

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

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

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

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

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

**Comment.** Section 27005 continues former Section 12078(s)(4) without substantive change, as that provision applied to former Section 12071(b).

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

## Article 5. Exceptions Relating to Law Enforcement

### **§ 27050. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

27050. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

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

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

**Comment.** Section 27050 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12071 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 26950, 27055-27065.  
See Sections 16520 (“firearm”), 16640 (“handgun”).

### **§ 27055. Exception for loan of firearm to peace officer employee for use in performing official duties**

27055. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

**Comment.** Section 27055 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12071 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 26950, 27050, 27060-27065.  
See Section 16520 (“firearm”).

**§ 27060. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

27060. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

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

**Comment.** Section 27060 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12071 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 26950, 27050-27055, 27065. See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 27065. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

27065. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

**Comment.** Section 27065 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12071 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 26950, 27050-27060. See Sections 16520 (“firearm”), 16640 (“handgun”).

## Article 6. Other Exceptions

### **§ 27100. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers**

27100. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 27100 continues former Section 12078(b)(1) without substantive change, as that provision applied to former Section 12071.

See Section 16520 (“firearm”).

### **§ 27105. Exception for service or repair by gunsmith**

27105. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

**Comment.** Section 27105 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12071.

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

### **§ 27110. Exception for sale, delivery, or transfer of unloaded firearms, other than handguns, by dealer to another dealer**

27110. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.

(b) The firearms are not handguns.

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

**Comment.** Section 27110 continues former Section 12078(k)(1) without substantive change, as that provision applied to former Section 12071.

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

### **§ 27115. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed nonresident**

27115. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of unloaded firearms by a dealer to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 27115 continues former Section 12078(k)(2) without substantive change, as that provision applied to former Section 12071.

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

**§ 27120. Exception for return of unloaded firearms to wholesaler to treat as merchandise**

27120. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

**Comment.** Section 27120 continues former Section 12078(k)(3) without substantive change, as that provision applied to former Section 12071.

See Sections 16520 ("firearm"), 17340 ("wholesaler"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive"),

**§ 27125. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another dealer to treat as merchandise**

27125. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.

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

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

**Comment.** Section 27125 continues former Section 12078(k)(4) without substantive change, as that provision applied to former Section 12071.

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27130. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun, by dealer to self**

27130. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

**Comment.** Section 27130 continues former Section 12078(k)(5) without substantive change, as that provision applied to former Section 12071.

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

**§ 27135. 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**

27135. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

**Comment.** Section 27135 continues former Section 12078(k)(6) without substantive change, as that provision applied to former Section 12071.

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

**§ 27140. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

27140. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.

(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

**Comment.** Section 27140 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12071.

See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

## CHAPTER 3. GUN SHOW OR EVENT

### Article 1. Gun Show or Event

#### § 27200. Certificate of eligibility for organizing gun show or event

27200. (a) No person shall produce, promote, sponsor, operate, or otherwise organize a gun show or event, as specified in subdivision (b) of Section 26805, unless that person possesses a valid certificate of eligibility from the Department of Justice.

(b) Unless the department's records indicate that the applicant is a person prohibited from possessing firearms, a certificate of eligibility shall be issued by the Department of Justice to an applicant provided the applicant does all of the following:

(1) Certifies that the applicant is familiar with the provisions of this article and Article 2 (commencing with Section 27300).

(2) Ensures that liability insurance is in effect for the duration of an event or show in an amount of not less than one million dollars (\$1,000,000).

(3) Provides an annual list of the gun shows or events that the applicant plans to promote, produce, sponsor, operate, or otherwise organize during the year for which the certificate of eligibility is issued, including the date, time, and location of the gun shows or events.

(c) If during that year the information required by paragraph (3) of subdivision (b) changes, or additional gun shows or events will be promoted, produced, sponsored, operated, or otherwise organized by the applicant, the producer shall notify the Department of Justice no later than 30 days prior to the gun show or event.

(d) The Department of Justice shall adopt regulations to administer the certificate of eligibility program under this section.

(e) The Department of Justice shall recover the full costs of administering the certificate of eligibility program by fees assessed applicants who apply for certificates. A licensed gun show producer shall be assessed an annual fee of eighty-five dollars (\$85) by the department.

(f) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to Section 26710 to the maximum extent practicable.

**Comment.** Subdivision (a) of Section 27200 continues the first sentence of former Section 12071.1(a) without substantive change.

Subdivision (b) continues the second sentence of former Section 12071.1(a) without substantive change.

Subdivision (c) continues former Section 12071.1(b) without substantive change.

Subdivisions (d) and (e) continue former Section 12071.1(d) without substantive change.

Subdivision (f) continues former Section 12071.1(q) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).  
See Sections 16520 (“firearm”), 16800 (“licensed gun show producer”).

**§ 27205. List of participants in gun show or event**

27205. (a) Before commencement of a gun show or event, the producer thereof shall, upon written request from a law enforcement agency with jurisdiction over the facility, make available to that agency, within 48 hours or a later time specified by the agency, a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

(b) The producer shall thereafter, upon written request, for every day the gun show or event operates, within 24 hours or a later time specified by the requesting law enforcement agency, make available to that agency an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

(c) Subdivisions (a) and (b) apply to any person, entity, or organization, regardless of whether that person, entity, or organization participates in the entire gun show or event, or only a portion thereof.

(d) The information that may be requested by the law enforcement agency with jurisdiction over the facility, and that shall be provided by the producer upon request, may include, but is not limited to, the following information relative to a vendor who offers for sale firearms manufactured after December 31, 1898:

(1) The vendor’s complete name.

(2) A driver’s license or identification card number.

**Comment.** Subdivision (a) of Section 27205 continues the first paragraph of former Section 12071.1(f) without substantive change.

Subdivision (b) continues the second paragraph of former Section 12071.1(f) without substantive change.

Subdivision (c) continues the third paragraph of former Section 12071.1(f) without substantive change.

Subdivision (d) continues former Section 12071.1(g) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

See Section 16520 (“firearm”).

**Note.** Proposed Section 27205(d) refers to “a vendor who offers for sale firearms manufactured after December 31, 1898.” (Emphasis added.) The reference to “1898” is not a mistake. See existing Section 12071.1(g).

**§ 27210. Annual event and security plan and schedule**

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

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

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

(3) The estimated number of attendees.

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

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

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

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

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

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

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

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

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

**Comment.** Subdivision (a) of Section 27210 continues former Section 12071.1(h) without substantive change.

Subdivision (b) continues the first sentence of former Section 12071.1(i) without substantive change.

Subdivision (c) continues the second sentence of former Section 12071.1(i) without substantive change.

Subdivision (d) continues the third sentence of former Section 12071.1(i) without substantive change.

Subdivision (e) continues the fourth sentence of former Section 12071.1(i) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

See Section 16520 ("firearm").

#### **§ 27215. Producer's duty to inform vendor of legal requirements**

27215. The producer of a gun show or event shall be responsible for informing prospective gun show vendors of the requirements of this article and of Article 2 (commencing with Section 27300) that apply to vendors.

**Comment.** Section 27215 continues former Section 12071.1(j) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

**§ 27220. Participation of licensed firearms dealer in gun show or event**

27220. (a) Within seven calendar days of the commencement of a gun show or event, but not later than noon on Friday for a show or event held on a weekend, the producer shall submit a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice for the purpose of determining whether these prospective vendors and designated firearms transfer agents possess valid licenses and are thus eligible to participate as licensed dealers at the show or event.

(b) The department shall examine its records and if it determines that a dealer's license is not valid, it shall notify the show or event producer of that fact before the show or event commences.

**Comment.** Subdivision (a) of Section 27220 continues the first sentence of former Section 12071.1(k) without substantive change.

Subdivision (b) continues the second sentence of former Section 12071.1(k) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27225. Cooperation of licensed firearms dealer**

27225. If a licensed firearms dealer fails to cooperate with a producer of a gun show or event, or fails to comply with the applicable requirements of this article or Article 2 (commencing with Section 27300), that person shall not be allowed to participate in that show or event.

**Comment.** Section 27225 continues former Section 12071.1(l) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27230. Producer's failure to comply with Section 27215 or 27220**

27230. If a producer fails to comply with Section 27215 or 27220, the gun show or event shall not commence until those requirements are met.

**Comment.** Section 27230 continues former Section 12071.1(m) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

**§ 27235. Written contract between producer and vendor**

27235. Every producer of a gun show or event shall have a written contract with each gun show vendor selling firearms at the show or event.

**Comment.** Section 27235 continues former Section 12071.1(n) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

See Section 16520 (“firearm”).

**§ 27240. Posting of signs**

27240. (a) The producer of a gun show or event shall require that signs be posted in a readily visible location at each public entrance to the show containing, but not limited to, the following notices:

(1) This gun show follows all federal, state, and local firearms and weapons laws, without exception.

(2) Any firearm carried onto the premises by any member of the public will be checked, cleared of any ammunition, and secured in a manner that prevents it from being operated, and an identification tag or sticker will be attached to the firearm before the person is allowed admittance to the show.

(3) No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.

(4) All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.

(5) Persons possessing firearms at this facility must have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined in Section 830.

(b) The show producer shall post, in a readily visible location at each entrance to the parking lot at the show, signage that states: “The transfer of firearms on the parking lot of this facility is a crime.”

**Comment.** Subdivision (a) of Section 27240 continues former Section 12071.1(o) without substantive change.

Subdivision (b) continues former Section 12071.1(p) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

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

**§ 27245. Punishment**

27245. (a) A willful failure by a gun show producer to comply with any of the requirements of this article, except for the posting of required signs, shall be a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000), and shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(b) A willful failure of a gun show producer to post signs as required by this article shall be a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) for the first offense and not to exceed two thousand dollars (\$2,000) for the second or subsequent offense, and with respect to the second or subsequent offense, shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(c) Multiple violations charged pursuant to subdivision (a) arising from more than one gun show or event shall be grounds for suspension of a producer's certificate of eligibility pending adjudication of the violations.

**Comment.** Subdivision (a) of Section 27245 continues former Section 12071.1(e)(1) without substantive change.

Subdivision (b) continues former Section 12071.1(e)(2) without substantive change.

Subdivision (c) continues former Section 12071.1(e)(3) without substantive change.

A violation of the predecessor of this article (former Section 12071.1) counts as a prior offense in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

## Article 2. Gun Show Enforcement and Security Act of 2000

### § 27300. Title of act

27300. This article shall be known, and may be cited as, the Gun Show Enforcement and Security Act of 2000.

**Comment.** Section 27300 continues former Section 12071.4(a) without substantive change.

### § 27305. Vendor certification to producer

27305. All gun show or event vendors shall certify in writing to the producer that they:

(a) Will not display, possess, or offer for sale any firearms, knives, or weapons for which possession or sale is prohibited.

(b) Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms.

(c) Will not engage in activities that incite or encourage hate crimes.

(d) Will process all transfers of firearms through licensed firearms dealers as required by state law.

(e) Will verify that all firearms in their possession at the show or event will be unloaded, and that the firearms will be secured in a manner that prevents them from being operated except for brief periods when the mechanical condition of a firearm is being demonstrated to a prospective buyer.

(f) Have complied with the requirements of Section 27320.

(g) Will not display or possess black powder, or offer it for sale.

**Comment.** Section 27305 continues former Section 12071.4(b) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

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

**§ 27310. Compliance with federal and state laws**

27310. All firearms transfers at a gun show or event shall be in accordance with applicable state and federal laws.

**Comment.** Section 27310 continues former Section 12071.4(c) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 (“firearm”).

**§ 27315. Display of ammunition**

27315. Except for purposes of showing ammunition to a prospective buyer, ammunition at a gun show or event may be displayed only in closed original factory boxes or other closed containers.

**Comment.** Section 27315 continues former Section 12071.4(d) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

**§ 27320. Information to be provided by vendor**

27320. (a) Before commencement of a gun show or event, each vendor who will offer for sale firearms manufactured after December 31, 1898, shall provide to the producer all of the following information relative to the vendor, the vendor’s employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor’s display space:

- (1) The person’s complete name.
- (2) The person’s driver’s license or state-issued identification card number.
- (3) The person’s date of birth.

(b) The producer shall keep the information at the onsite headquarters of the show or event for the duration of the show or event, and at the producer’s regular place of business for two weeks after the conclusion of the show or event. The producer shall make the information available upon request to any sworn peace officer for purposes of the officer’s official law enforcement duties.

**Comment.** Section 27320 continues former Section 12071.4(e) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 (“firearm”).

**Note.** Proposed Section 27320(a) refers to “each vendor who will offer for sale firearms manufactured after December 31, 1898 ...” (Emphasis added.) The reference to “1898” is not a mistake. See existing Section 12071.4(e).

**§ 27325. Nametag requirement**

27325. At any gun show or event, each vendor and each employee of a vendor shall wear a name tag indicating first and last name.

**Comment.** Section 27325 continues former Section 12071.4(f) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

**§ 27330. Simultaneous possession of firearm and ammunition designed for that firearm**

27330. No person at a gun show or event, other than security personnel or sworn peace officers, shall possess at the same time both a firearm and ammunition that is designed to be fired in the firearm. Vendors having those items at the show for sale or exhibition are exempt from this prohibition.

**Comment.** Section 27330 continues former Section 12071.4(g) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 (“firearm”).

**§ 27335. Attendance by person under 18**

27335. No member of the public who is under the age of 18 years shall be admitted to, or be permitted to remain at, a gun show or event unless accompanied by a parent or legal guardian. Any member of the public who is under the age of 18 shall be accompanied by that person’s parent, grandparent, or legal guardian while at the show or event.

**Comment.** Section 27335 continues former Section 12071.4(h) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

**§ 27340. Firearm brought to gun show by member of public**

27340. (a) Persons other than show or event security personnel, sworn peace officers, or vendors, who bring firearms onto the gun show or event premises shall sign in ink the tag or sticker that is attached to the firearm prior to being allowed admittance to the show or event, as provided for in subdivision (b).

(b) All firearms carried onto the premises of a gun show or event by members of the public shall be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker shall be attached to the firearm, prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all firearms transfers between private parties at the show or event shall be conducted through a licensed dealer in accordance with applicable state and federal laws. The person possessing the firearm shall complete the following information on the tag before it is attached to the firearm:

(1) The gun owner’s signature.

(2) The gun owner's printed name.

(3) The identification number from the gun owner's government-issued photo identification.

**Comment.** Subdivision (a) of Section 27340 continues former Section 12071.4(i) without substantive change.

Subdivision (b) continues former Section 12071.4(j) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 ("firearm").

#### **§ 27345. Government-issued photo identification**

27345. Any person who possesses a firearm at a gun show or event shall have government-issued photo identification in immediate possession, and shall display it upon request to any security officer or peace officer.

**Comment.** Section 27345 continues former Section 12071.4(k) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 ("firearm").

#### **§ 27350. Punishment**

27350. (a) Unless otherwise specified, a first violation of this article is an infraction.

(b) Any second or subsequent violation of this article is a misdemeanor.

(c) Any person who commits an act the person knows to be a violation of this article is guilty of a misdemeanor for a first offense.

**Comment.** Section 27350 continues former Section 12071.4(l) without substantive change.

A violation of the predecessor of this article (former Section 12071.4(k)) counts as a prior offense in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

### Article 3. Exceptions Relating to Law Enforcement

#### **§ 27400. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

27400. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

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

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

**Comment.** Section 27400 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the preceding provisions of this article”).

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

**§ 27405. Exception for loan of firearm to peace officer employee for use in performing official duties**

27405. Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

**Comment.** Section 27405 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the preceding provisions of this article”).

See Section 16520 (“firearm”).

**§ 27410. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

27410. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall

arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 27410 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the preceding provisions of this article”).

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

**§ 27415. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

27415. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

**Comment.** Section 27415 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the preceding provisions of this article”).

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

CHAPTER 4. CRIMES RELATING TO SALE, LEASE, OR TRANSFER OF FIREARMS

Article 1. Crimes Relating to Sale, Lease, or Transfer of Firearms

**§ 27500. Providing firearm to person in prohibited class**

27500. (a) No person, corporation, or firm shall knowingly sell, supply, deliver or give possession or control of a firearm to any person within any of the classes prohibited by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9.

(b) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to anyone whom the person, corporation, or dealer has cause to believe is within any of the classes prohibited by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

**Comment.** Subdivision (a) of Section 27500 continues former Section 12072(a)(1) without substantive change.

Subdivision (b) continues former Section 12072(a)(2) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

**§ 27505. Person, corporation, or firm that sells, loans, or transfers firearm to minor or handgun to person under age 21**

27505. (a) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age.

(b) Subdivision (a) shall not apply to or affect the following circumstances:

(1) The sale of a handgun, if the handgun is an antique firearm and the sale is to a person at least 18 years of age.

(2) The transfer or loan of a firearm, other than a handgun, to a minor by the minor’s parent or legal guardian.

(3) The transfer or loan of a firearm, other than a handgun, to a minor by a grandparent who is not the legal guardian of the minor, if the transfer is done with the express permission of the minor’s parent or legal guardian.

(4) The loan of a firearm, other than a handgun, to a minor, with the express permission of the minor’s parent or legal guardian, if the loan does not exceed 30 days in duration and is for a lawful purpose.

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

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

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

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

(A) The minor is accompanied by the minor’s parent or legal guardian when the loan is made, or the minor has the written consent of the minor’s parent or legal guardian, which is presented at the time of the loan, or earlier.

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

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

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

**Comment.** Subdivision (a) of Section 27505 continues former Section 12072(a)(3)(A) without substantive change.

Subdivision (b) continues without substantive change former Section 12072(a)(3)(B) and former Section 12078(p), as it pertained to former Section 12072(a)(3). See Section 16170 (“antique firearm”).

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

#### **§ 27510. Dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21**

27510. No person licensed under Sections 26700 to 26915, inclusive, shall sell, supply, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years, or any other firearm to a person under the age of 18 years.

**Comment.** Section 27510 continues former Section 12072(b) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

#### **§ 27515. Providing firearm to sham recipient**

27515. No person, corporation, or dealer shall sell, loan, or transfer a firearm to anyone whom the person, corporation, or dealer knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to anyone who is not the one actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(a) Knowledge that the firearm is to be subsequently sold, loaned, or transferred to avoid the provisions of Section 27540 or 27545.

(b) Knowledge that the firearm is to be subsequently sold, loaned, or transferred to avoid the requirements of any exemption to the provisions of Section 27540 or 27545.

**Comment.** Section 27515 continues former Section 12072(a)(4) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

**§ 27520. Acquiring firearm with intent to violate certain restrictions**

27520. No person, corporation, or dealer shall acquire a firearm for the purpose of selling, loaning, or transferring the firearm, if the person, corporation, or dealer has either of the following:

- (a) In the case of a dealer, intent to violate Section 27510 or 27540.
- (b) In any other case, intent to avoid either of the following:
  - (1) The provisions of Section 27545.
  - (2) The requirements of any exemption to the provisions of Section 27545.

**Comment.** Section 27520 continues former Section 12072(a)(5) without substantive change. For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

**§ 27525. Compliance with reporting requirements**

27525. (a) A dealer shall comply with Section 26905.

(b) A dealer shall comply with Section 26910.

**Comment.** Subdivision (a) of Section 27525 continues former Section 12072(a)(6), relating to reporting of handgun acquisitions, without substantive change.

Subdivision (b) continues former Section 12072(a)(7), relating to reporting of information on a firearm that is not timely delivered, without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

**§ 27530. Transfer of handgun that lacks identifying information**

27530. No person shall sell or otherwise transfer ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(a) The name of the manufacturer, the manufacturer’s make or model, and a manufacturer’s serial number assigned to that firearm.

(b) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 23910.

**Comment.** Section 27530 continues former Section 12072(a)(8) without substantive change. For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

**§ 27535. Purchasing more than one firearm in 30-day period**

27535. (a) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

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

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person's pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

(12) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

**Comment.** Section 27535 continues former Section 12072(a)(9) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27540. Waiting period and other delivery restrictions**

27540. No dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e)(1) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(2) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(f) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subdivision (b) of Section 27535.

**Comment.** Section 27540 continues former Section 12072(c) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), and Article 4 (commencing with Section 27700).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16190 ("application to purchase"), 16240 ("basic firearms safety certificate"), 16400 ("clear evidence of the person's identity and age"), 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16670 ("handgun safety certificate"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27545. Use of dealer for private party firearms transaction**

27545. Where neither party to the transaction holds a dealer's license issued pursuant to Sections 26700 to 26915, inclusive, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

**Comment.** Section 27545 continues former Section 12072(d) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600) and Article 6 (commencing with Section 27850). See also Section 28000 (circumstances that may be reported to Department of Justice in prescribed format).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

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

**§ 27550. No collusion**

27550. (a) No person may commit an act of collusion relating to Sections 31610 to 31700, inclusive.

(b) For purposes of this section and Section 26870, collusion may be proven by any one of the following factors:

(1) Answering a test applicant’s questions during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Using or allowing another to use one’s identification, proof of residency, or thumbprint.

(7) Allowing others to give unauthorized assistance during the examination.

(8) Reference to unauthorized materials during the examination and cheating by the applicant.

(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

**Comment.** Section 27550 continues former Section 12072(e) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16670 (“handgun safety certificate”).

**§ 27555. Obtaining verification number**

27555. (a)(1) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not sell, deliver, or transfer a firearm to a person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code unless, prior to delivery, the person intending to sell, deliver, or transfer the firearm obtains a verification number via the Internet for the intended sale, delivery, or transfer, from the Department of Justice.

(2) If Internet service is unavailable to either the department or the licensee due to a technical or other malfunction, or a federal firearms licensee who is located

outside of California does not possess a computer or have Internet access, alternate means of communication, including facsimile or telephone, shall be made available for a licensee to obtain a verification number in order to comply with this section.

(b) For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to Section 26715, or the centralized list of exempted federal firearms licensees pursuant to Section 28450, or the centralized list of firearms manufacturers pursuant to Section 29060.

(c)(1) If the department finds that the intended recipient is on one of these lists, the department shall issue to the inquiring party, a unique identification number for the intended sale, delivery, or transfer.

(2) In addition to the unique verification number, the department may provide to the inquiring party information necessary for determining the eligibility of the intended recipient to receive the firearm.

(3) The person intending to sell, deliver, or transfer the firearm shall provide the unique verification number to the recipient along with the firearm upon delivery, in a manner to be determined by the department.

(d) If the department finds that the intended recipient is not on one of these lists, the department shall notify the inquiring party that the intended recipient is ineligible to receive the firearm.

(e) The department shall prescribe the manner in which the verification numbers may be requested via the Internet, or by alternate means of communication, such as by facsimile or telephone, including all required enrollment information and procedures.

(f) This section does not apply to the sale, delivery, or transfer of an assault weapon, a machinegun, a short-barreled rifle, or a short-barreled shotgun.

**Comment.** Section 27555 continues former Section 12072(f)(1) without substantive change. An erroneous reference to “this section” in former Section 12072(f)(1)(B) has been replaced with a reference to Section 26715, which continues former Section 12071(e).

For exceptions to this provision, see Article 2 (commencing with Section 27600) and Article 5 (commencing with Section 27800).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

#### **§ 27560. Restrictions on personal handgun importer**

27560. (a) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(1) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(2) Sell or transfer the firearm in accordance with the provisions of Section 27545 or in accordance with the provisions of an exemption from Section 27545.

(3) Sell or transfer the firearm to a dealer licensed pursuant to Sections 26700 to 26915, inclusive.

(4) Sell or transfer the firearm to a sheriff or police department.

(b) If all of the following requirements are satisfied, the personal handgun importer shall have complied with the provisions of this section:

(1) The personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Section 27545.

(2) The sale or transfer cannot be completed by the dealer to the purchaser or transferee.

(3) The firearm can be returned to the personal handgun importer,

(c)(1) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law.

(2) However, an act or omission punishable in different ways by this article and different provisions of the Penal Code shall not be punished under more than one provision.

(d) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this section to ensure a high degree of publicity of the provisions of this section.

(e) As part of the public education and notification program described in this section, the department shall do all of the following:

(1) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this section is advised of the provisions of this section, and provided with blank copies of the report described in paragraph (1) of subdivision (a), at the time when that person applies for a California driver's license or registers a motor vehicle in accordance with the Vehicle Code.

(2) Make the reports referred to in paragraph (1) of subdivision (a) available to dealers licensed pursuant to Sections 26700 to 26915, inclusive.

(3) Make the reports referred to in paragraph (1) of subdivision (a) available to law enforcement agencies.

(4) Make persons subject to the provisions of this section aware that (i) the report referred to in paragraph (1) of subdivision (a) may be completed at either a law enforcement agency or the licensed premises of a dealer licensed pursuant to Sections 26700 to 26915, inclusive, (ii) it is advisable to do so for the sake of accuracy and completeness of the report, (iii) before transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency to comply with subdivision (a), the person should give notice to the law enforcement agency that the person is doing so, and (iv) in any event, the pistol,

revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(f) Any costs incurred by the department to implement this section shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of subdivisions (d) and (e) of this section pursuant to Section 28235.

**Comment.** Section 27560 continues former Section 12072(f)(2) without substantive change.

For guidance in applying this section, see Section 27570 (rules for applying Sections 27560 and 27565).

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 17000 ("personal handgun importer"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27565. Handgun that is curio or relic, transported into California by licensed collector**

27565. (a) This section applies in the following circumstances:

(1) A person is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) The licensed premises of that person are within this state.

(3) The licensed collector acquires, outside of this state, a pistol, revolver, or other firearm capable of being concealed upon the person.

(4) The licensed collector takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports the firearm into this state.

(5) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(b) Within five days of transporting a firearm into this state under the circumstances described in subdivision (a), the licensed collector shall report the acquisition of that firearm to the department in a format prescribed by the department.

**Comment.** Section 27565 continues former Section 12072(f)(3) without substantive change.

For guidance in applying this section, see Section 27570 (rules for applying Sections 27560 and 27565).

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

**§ 27570. Rules for applying Sections 27560 and 27565**

27570. (a) It is the intent of the Legislature that a violation of Section 27560 or 27565 shall not constitute a "continuing offense" and the statute of limitations for

commencing a prosecution for a violation of Section 27560 or 27565 commences on the date that the applicable grace period specified in Section 27560 or 27565 expires.

(b) Sections 27560 and 27565 shall not apply to a person who reports ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in Section 27560 or 27565 expires if evidence of that violation arises only as the result of the person submitting the report described in Section 27560 or 27565.

**Comment.** Section 27570 continues former Section 12072(f)(4) without substantive change.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 27590. Punishment for violation of article**

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment in the state prison for two, three, or four years.

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, of this article or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a “criminal street gang” as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person, to a minor.

(3) A violation of Section 27510 involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) A violation of Section 27545 involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(6) A violation of Section 27550.

(d) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e)(1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars (\$50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars (\$100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) For purposes of this subdivision each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of Section 27535 shall be deemed a separate offense.

**Comment.** Section 27590 continues former Section 12072(g) without substantive change.

For guidance in applying paragraphs (b)(2), (b)(3), (e)(2), and (e)(3), see Section 16015 (determining existence of prior conviction).

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

## Article 2. Exceptions Relating to Law Enforcement

### **§ 27600. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

27600. (a) Article 1 (commencing with Section 27500) does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

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

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

**Comment.** Section 27600 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

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

**§ 27605. Exception for loan of firearm to peace officer employee for use in performing official duties**

27605. Article 1 (commencing with Section 27500) does not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

**Comment.** Section 27605 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

See Section 16520 (“firearm”).

**§ 27610. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

27610. (a) Article 1 (commencing with Section 27500) does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

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

**Comment.** Section 27610 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

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

**§ 27615. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

27615. (a) Article 1 (commencing with Section 27500) does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

**Comment.** Section 27615 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

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

### Article 3. Exceptions Extending Only to Waiting Period

#### § 27650. Waiting period exception for sale, delivery, or transfer to full-time paid peace officer authorized to carry firearms in performance of duties

27650. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of firearms made to any person who satisfies both of the following requirements:

(1) The person is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) The officer’s employer has authorized the officer to carry firearms while in the performance of duties.

(b)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of duties, and authorizing the purchase or transfer.

(2) The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification.

(3) The dealer shall keep the certification with the record of sale.

(4) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

**Comment.** Section 27650 continues former Section 12078(a)(1) without substantive change, as that provision applied to the waiting period in former Section 12072.

For other exceptions relating to law enforcement, see Sections 27600-27615.

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

**§ 27655. Waiting period exception for dealer who delivers firearm other than handgun at auction or similar event conducted by nonprofit mutual or public benefit corporation**

27655. (a) The waiting period described in Section 27540 does not apply to a dealer who delivers a firearm, other than a handgun, at an auction or similar event described in Section 27900, as authorized by subdivision (c) of Section 26805.

(b) Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28165.

(c) If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28165.

**Comment.** Section 27655 continues former Section 12078(g)(3) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 27660. Waiting period exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self or another dealer**

27660. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of a handgun by a dealer in either of the following situations:

(1) The dealer is delivering the firearm to another dealer, the firearm is not intended as merchandise in the receiving dealer’s business, and the requirements of subdivisions (b) and (c) are satisfied.

(2) The dealer is delivering the firearm to himself or herself, the firearm is not intended as merchandise in the dealer’s business, and the requirements of subdivision (c) are satisfied.

(b) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that the receiving dealer is licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800). This shall be done by complying with Section 27555.

(c)(1) Regardless of whether the dealer is selling, delivering, or transferring the firearm to another dealer or to himself or herself, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

(2) Where electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

**Comment.** Section 27660 continues former Section 12078(n) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 27665. Waiting period exception for sale, delivery, or transfer to holder of special weapons permit**

27665. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of Division 10 of this title.

(b) On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165.

**Comment.** Section 27665 continues former Section 12078(r) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 27670. Waiting period exception for sale, delivery, loan, or transfer of curio or relic by dealer to licensed collector**

27670. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, loan, or transfer of a firearm if all of the following conditions are satisfied:

(1) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(2) The sale, delivery, loan, or transfer is made by a dealer.

(3) The sale, delivery, loan, or transfer is made to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) The licensed collector has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(b) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

**Comment.** Section 27670 continues former Section 12078(t)(1) without substantive change, as that provision applied to the waiting period in former Section 12072.

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

## Article 4. Exceptions to Restrictions on Delivery of a Firearm

### **§ 27700. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers**

27700. Section 27540 does not apply to sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 27700 continues former Section 12078(b)(1) without substantive change, as that provision applied to former Section 12072(c).

See Section 16520 (“firearm”).

### **§ 27705. Exception for service or repair by gunsmith**

27705. Section 27540 does not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

**Comment.** Section 27705 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12072(c).

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

### **§ 27710. Exception for sale, delivery, or transfer of unloaded firearms, other than handguns, by dealer to another dealer**

27710. Section 27540 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.

(b) The firearms are not handguns.

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

**Comment.** Section 27710 continues former Section 12078(k)(1) without substantive change, as that provision applied to former Section 12072(c).

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

### **§ 27715. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed nonresident**

27715. Section 27540 does not apply to the sale, delivery, or transfer of unloaded firearms by a dealer to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 27715 continues former Section 12078(k)(2) without substantive change, as that provision applied to former Section 12072(c).

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

**§ 27720. Exception for return of unloaded firearms to wholesaler to treat as merchandise**

27720. Section 27540 does not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

**Comment.** Section 27720 continues former Section 12078(k)(3) without substantive change, as that provision applied to former Section 12072(c).

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

**§ 27725. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another dealer to treat as merchandise**

27725. Section 27540 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.

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

(c) The firearms are intended as merchandise in the receiving dealer's business.

**Comment.** Section 27725 continues former Section 12078(k)(4) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27730. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun, by dealer to self**

27730. Section 27540 does not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

**Comment.** Section 27730 continues former Section 12078(k)(5) without substantive change, as that provision applied to former Section 12072(c).

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

**§ 27735. 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**

27735. Section 27540 does not apply to the loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

**Comment.** Section 27735 continues former Section 12078(k)(6) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 27740. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

27740. Section 27540 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.

(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

**Comment.** Section 27740 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

**§ 27745. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit**

27745. (a) Section 27540 does not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

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

**Comment.** Section 27745 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12072(c).

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

**§ 27750. Exception for short-term loan of unloaded firearm by dealer to consultant-evaluator**

27750. (a) Section 27540 does not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the date of delivery.

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

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

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

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

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

**Comment.** Section 27750 continues former Section 12078(s)(4) without substantive change, as that provision applied to former Section 12072(c).

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

Article 5. Exceptions to the Requirement of Obtaining a  
Verification Number

**§ 27800. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

27800. Section 27555 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.

(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

**Comment.** Section 27800 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(f)(1).

See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

**§ 27805. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit**

27805. (a) Section 27555 does not apply to the loan of a firearm if all of the following conditions are satisfied:

(1) The firearm is unloaded.

(2) The loan is made by a dealer.

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

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

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

**Comment.** Section 27805 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12072(f)(1).

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

**§ 27810. Exception for loan of unloaded firearm, for use solely as prop, by federal firearms licensee to person with entertainment firearms permit**

27810. (a) Section 27555 does not apply to the loan of a firearm if all of the following requirements are satisfied:

(1) The firearm is unloaded.

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

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

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

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

**Comment.** Section 27810 continues former Section 12078(s)(2) without substantive change, as that provision applied to former Section 12072(f)(1).

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

**§ 27815. Exception for short-term loan of unloaded firearm by dealer to consultant-evaluator**

27815. (a) Section 27555 does not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the date of delivery.

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

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

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

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

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

**Comment.** Section 27815 continues former Section 12078(s)(4) without substantive change, as that provision applied to former Section 12072(f)(1).

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

**§ 27820. Exception for infrequent sale, loan, or transfer of curio or relic manufactured at least 50 years ago, which is not handgun**

27820. If all of the following requirements are satisfied, Section 27555 does not apply to the sale, loan, or transfer of a firearm:

(a) The sale, loan, or transfer is infrequent, as defined in Section 16730.

(b) The firearm is not a handgun.

(c) The firearm is a curio or relic manufactured at least 50 years prior to the current date but is not a replica, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

**Comment.** Section 27820 continues former Section 12078(t)(2) without substantive change, as that provision applied to former Section 12072(f)(1).

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

Article 6. Exceptions to the Requirement of Using a Dealer for a  
Private Party Firearms Transaction

**§ 27850. Exception for sale, delivery, or transfer to governmental entity as part of program in which entity is acquiring weapons from private individuals**

27850. (a) Section 27545 does not apply to a sale, delivery, or transfer of firearms if both of the following requirements are satisfied:

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

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

(b) Any weapons acquired pursuant to this section shall be disposed of pursuant to the applicable provisions of Section 34000 or Sections 18000 and 18005.

**Comment.** Section 27850 continues former Section 12078(a)(6) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

**§ 27855. Exception for sale, delivery, loan, or transfer by law enforcement representative to nonprofit historical society, museum, or institutional collection**

27855. Section 27545 does not apply to the sale, delivery, loan, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, or state, or of the federal government, to any public or private nonprofit historical society, museum, or institutional collection, or the purchase or receipt of that firearm by that public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

- (a) The entity receiving the firearm is open to the public.
- (b) The firearm prior to delivery is deactivated or rendered inoperable.
- (c) The firearm is not subject to any of the following:
  - (1) Sections 18000 and 18005.
  - (2) Division 4 (commencing with Section 18250) of Title 2.
  - (3) Section 34000.
  - (4) Sections 34005 and 34010.
- (d) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.
- (e) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, with Section 31615.
- (f) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, all of the following information shall be reported to the department in a manner prescribed by the department:
  - (1) The name of the government entity delivering the firearm.
  - (2) The make, model, serial number, and other identifying characteristics of the firearm.
  - (3) The name of the person authorized by the entity to take possession of the firearm.
- (g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

**Comment.** Section 27855 continues former Section 12078(a)(7) without substantive change, as that provision applied to former Section 12072(d).  
See Section 16520 (“firearm”).

**§ 27860. Exception for sale, delivery, loan, or transfer by person other than law enforcement representative to nonprofit historical society, museum, or institutional collection**

27860. Section 27545 does not apply to the sale, delivery, loan, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

- (a) The entity receiving the firearm is open to the public.
- (b) The firearm is deactivated or rendered inoperable prior to delivery.
- (c) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.
- (d) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the

applicable provisions listed in Section 16575 and, if applicable, with Section 31615.

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

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

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

(3) A description of the firearm in question.

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

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

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

**Comment.** Section 27860 continues former Section 12078(a)(8) without substantive change, as that provision applied to former Section 12072(d).

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

**§ 27865. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers**

27865. Section 27545 does not apply to sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 27865 continues former Section 12078(b)(1) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

**§ 27870. Exception for infrequent transfer of firearm, other than handgun, between members of same immediate family**

27870. Section 27545 does not apply to the transfer of a firearm, other than a handgun, by gift, bequest, intestate succession, or other means from one individual to another, if both of the following requirements are satisfied:

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

(b) The transfer is between members of the same immediate family.

**Comment.** Section 27870 continues former Section 12078(c)(1) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16720 (“immediate family member”).

**§ 27875. Exception for infrequent transfer of handgun between members of same immediate family**

27875. Section 27545 does not apply to the transfer of a handgun by gift, bequest, intestate succession, or other means from one individual to another, if all of the following requirements are met:

- (a) The transfer is infrequent, as defined in Section 16730.
- (b) The transfer is between members of the same immediate family.
- (c) Within 30 days of taking possession of the firearm, the person to whom it is transferred shall forward by prepaid mail, or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this section shall be provided to them by the Department of Justice.
- (d) The person taking title to the firearm shall first obtain a handgun safety certificate.
- (e) The person receiving the firearm is 18 years of age or older.

**Comment.** Section 27875 continues former Section 12078(c)(2) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 16720 (“immediate family member”).

**§ 27880. Exception for infrequent loan of firearm between persons who are personally known to each other**

27880. Section 27545 does not apply to the loan of a firearm between persons who are personally known to each other, if all of the following requirements are satisfied:

- (a) The loan is infrequent, as defined in Section 16730.
- (b) The loan is for any lawful purpose.
- (c) The loan does not exceed 30 days in duration.
- (d) Commencing January 1, 2003, if the firearm is a handgun, the individual being loaned the handgun shall have a valid handgun safety certificate.

**Comment.** Section 27880 continues former Section 12078(d)(1) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”).

**§ 27885. 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**

27885. Section 27545 does not apply to the loan of a firearm if all of the following conditions exist:

- (a) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.
- (b) The loan is for a lawful purpose.
- (c) The loan does not exceed three days in duration.
- (d) The individual receiving the firearm is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.
- (e) The person loaning the firearm is 18 years of age or older.

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

**Comment.** Section 27885 continues former Section 12078(d)(2) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

**§ 27890. Exception for service or repair by gunsmith**

27890. Section 27545 does not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

**Comment.** Section 27890 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12072(d).

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

**§ 27895. Exception for sale, delivery, or transfer by resident to licensed nonresident**

27895. Section 27545 does not apply to the sale, delivery, or transfer of firearms if all of the following requirements are satisfied:

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

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

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

**Comment.** Section 27895 continues former Section 12078(f) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

**§ 27900. Exception for infrequent sale or transfer of firearm, other than handgun, at auction or similar event conducted by nonprofit mutual or public benefit corporation**

27900. (a) Section 27545 does not apply to the infrequent sale or transfer of a firearm other than a handgun at an auction or similar event conducted by a nonprofit mutual or public benefit corporation organized pursuant to the Corporations Code.

(b) As used in this section, “infrequent” has the meaning provided in Section 16730.

**Comment.** Section 27900 continues the first paragraph of former Section 12078(g)(1) without substantive change.

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

**§ 27905. Exception for donation of firearm, other than handgun, for auction or similar event conducted by nonprofit mutual or public benefit corporation**

27905. Section 27545 does not apply to the transfer of a firearm if all of the following requirements are satisfied:

(a) The firearm is not a handgun.

(b) The firearm is donated for an auction or similar event described in Section 27900.

(c) The firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

**Comment.** Section 27905 continues former Section 12078(g)(2) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 27910. Exception for loan of firearm to person 18 or older for target shooting under specified circumstances**

27910. Section 27545 does not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

**Comment.** Section 27910 continues former Section 12078(h) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

**§ 27915. Exception for person who takes title or possession of firearm, other than handgun, by operation of law**

27915. Section 27545 does not apply to a person who takes title or possession of a firearm by operation of law if both of the following requirements are satisfied:

(a) The firearm is not a handgun.

(b) The person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

**Comment.** Section 27915 continues former Section 12078(i)(1) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16990 (“person taking title or possession of a firearm by operation of law”).

**§ 27920. Exception for person who takes title or possession of handgun by operation of law**

27920. Section 27545 does not apply to a person who takes title or possession of a handgun by operation of law if the person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and all of the following conditions are met:

(a) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subdivision (g), (i), or (j) of Section 16990, the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question.

(b) If the person taking title or possession is receiving the firearm pursuant to subdivision (g) of Section 16990, the person shall do both of the following:

(1) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question.

(2) Prior to taking title or possession of the firearm, the person shall obtain a handgun safety certificate.

(c) Where the person receiving title or possession of the handgun is a person described in subdivision (i) of Section 16990, on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. An agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(d) Where the person receiving title or possession of the handgun is a person described in subdivision (j) of Section 16990, on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. An agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun to the person referred to in this subdivision unless, prior to the delivery of the handgun, the person presents proof to the agency that the person is the holder of a handgun safety certificate.

(e) The reports that individuals complete pursuant to this section shall be provided to them by the Department of Justice.

**Comment.** Section 27920 continues former Section 12078(i)(2) without substantive change. An erroneous cross-reference to Code of Civil Procedure Section 680.210 has been corrected by replacing it with a cross-reference to Code of Civil Procedure Section 680.260.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16990 (“person taking title or possession of a firearm by operation of law”).

**§ 27925. Exception for person who takes possession of firearm by operation of law in representative capacity and then transfers firearm to self in individual capacity**

27925. (a) Section 27545 does not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in an individual capacity.

(b) In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

**Comment.** Section 27925 continues former Section 12078(i)(3) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 16990 (“person taking title or possession of a firearm by operation of law”).

**§ 27930. Exception for deliveries, transfers, or returns made pursuant to certain statutes**

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (a) Sections 18000 and 18005.
- (b) Division 4 (commencing with Section 18250) of Title 2.
- (c) Chapter 2 (commencing with Section 33850) of Division 11.
- (d) Sections 34005 and 34010.

**Comment.** Section 27930 continues former Section 12078(j) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

**§ 27935. Exception for sale, delivery, or transfer of unloaded firearms to wholesaler by another wholesaler or by licensed manufacturer or importer**

27935. Section 27545 does not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler’s business by a manufacturer or importer licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the sale, delivery, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

**Comment.** Section 27935 continues former Section 12078(m) without substantive change, as that provision applied to former Section 12072(d).

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

**§ 27940. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

27940. Section 27545 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.

(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

**Comment.** Section 27940 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(d).

See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

**§ 27945. Exception for certain situations involving minor**

27945. Section 27545 does not apply to or affect the following circumstances:

(a) The transfer or loan of a firearm, other than a handgun, to a minor by the minor’s parent or legal guardian.

(b) The transfer or loan of a firearm, other than a handgun, to a minor by a grandparent who is not the legal guardian of the minor, if the transfer is done with the express permission of the minor’s parent or legal guardian.

(c) The loan of a firearm, other than a handgun, to a minor, with the express permission of the minor’s parent or legal guardian, if the loan does not exceed 30 days in duration and is for a lawful purpose.

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

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

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

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

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

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

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

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

**Comment.** Subdivision (a) of Section 27945 continues former Section 12078(p)(4) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (b) continues former Section 12078(p)(5) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (c) continues former Section 12078(p)(1) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (d) continues former Section 12078(p)(3) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (e) continues former Section 12078(p)(2) without substantive change, as that provision applied to former Section 12072(d).

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

**§ 27950. Exception for loan of firearm, other than handgun, to licensed hunter for use in hunting season**

27950. Section 27545 does not apply to the loan of a firearm, other than a handgun, to a licensed hunter for use by that hunter for a period of time not to exceed the duration of the hunting season for which the firearm is to be used.

**Comment.** Section 27950 continues former Section 12078(q) without substantive change. See Sections 16520 ("firearm"), 16640 ("handgun").

**§ 27955. Exception for infrequent loan of unloaded firearm for use solely as prop**

27955. Section 27545 does not apply to the loan of a firearm if all of the following requirements are satisfied:

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

(b) The firearm is unloaded.

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

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

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

**Comment.** Section 27955 continues former Section 12078(s)(1) without substantive change, as that provision applied to former Section 12072(d).

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

**§ 27960. Exception loan of unloaded firearm, for use solely as prop, by federal firearms licensee to person with entertainment firearms permit**

27960. (a) Section 27545 does not apply to the loan of a firearm if all of the following requirements are satisfied:

(1) The firearm is unloaded.

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

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

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

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

**Comment.** Section 27960 continues former Section 12078(s)(2) without substantive change, as that provision applied to former Section 12072(d).

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

**§ 27965. Exception for infrequent sale, loan, or transfer of curio or relic manufactured at least 50 years ago, which is not handgun**

27965. If all of the following requirements are satisfied, Section 27545 does not apply to the sale, loan, or transfer of a firearm:

(a) The sale, loan, or transfer is infrequent, as defined in Section 16730.

(b) The firearm is not a handgun.

(c) The firearm is a curio or relic manufactured at least 50 years prior to the current date but is not a replica, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

**Comment.** Section 27965 continues former Section 12078(t)(2) without substantive change, as that provision applied to former Section 12072(d).

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

## Article 7. Report to Department of Justice

**§ 28000. Circumstances that may be reported to Department of Justice in prescribed format**

28000. A person who is exempt from Section 27545 or is otherwise not required by law to report acquisition, ownership, or disposal of a handgun or who moves out of this state with the person’s handgun may report that to the Department of Justice in a format prescribed by the department.

**Comment.** Section 28000 continues former Section 12078(l) without substantive change. See Section 16640 (“handgun”).

## CHAPTER 5. PROCEDURE FOR A PRIVATE PARTY FIREARMS TRANSACTION

### § 28050. Basic procedure

28050. (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Sections 26700 to 26915, inclusive, in accordance with this chapter in order to comply with Section 27545.

(b) The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm.

(c) The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with Section 27540.

(d) If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 26815 and 27540, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of Section 27500, 27505, 27515, 27520, 27525, 27530, or 27535. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county, who shall then dispose of the firearm in the manner provided by Sections 18000, 18005, and 34000.

**Comment.** Section 28050 continues the first six sentences of former Section 12082(a) without substantive change.

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

### § 28055. Fees

28055. (a) For a sale, loan, or transfer conducted pursuant to this chapter, the purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars (\$10) per firearm.

(b) No other fee may be charged by the dealer for a sale, loan, or transfer of a firearm conducted pursuant to this chapter, except for the applicable fees that may be charged pursuant to Sections 23690 and 28300 and Article 3 (commencing with Section 28200) of Chapter 6 and forwarded to the Department of Justice, and the fees set forth in Section 31650.

(c) The dealer may not charge any additional fees.

(d) Nothing in these provisions shall prevent a dealer from charging a smaller fee.

**Comment.** Subdivisions (a) and (b) of Section 28055 continue the seventh sentence of former Section 12082(a) without substantive change.

Subdivision (c) continues the ninth sentence of former Section 12082(a) without substantive change.

Subdivision (d) continues the eighth sentence of former Section 12082(a) without substantive change.

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

#### § 28060. Regulations

28060. The Attorney General shall adopt regulations under this chapter to do all of the following:

(a) Allow the seller or transferor or the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to preserve the confidentiality of those records and to comply with the requirements of this chapter and all of the following:

(1) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(2) Article 1 (commencing with Section 27500) of Chapter 4.

(3) Article 2 (commencing with Section 28150) of Chapter 6.

(4) Article 3 (commencing with Section 28200) of Chapter 6.

(b) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with paragraph (2) of subdivision (a) of Section 27560, to allow a personal handgun importer’s ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of the importer’s ownership can be maintained in the registry provided by subdivision (c) of Section 11106.

(c) Ensure that the register or record of electronic transfer shall state all of the following:

(1) The name and address of the seller or transferor of the firearm or the person loaning the firearm.

(2) Whether or not the person is a personal handgun importer.

(3) Any other information required by Article 2 (commencing with Section 28150) of Chapter 6.

**Comment.** Section 28060 continues former Section 12082(b) without substantive change.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17000 (“personal handgun importer”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 28065. Dealer who does not sell, transfer, or keep inventory of handguns**

28065. Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

**Comment.** Section 28065 continues former Section 12082(c) without substantive change.

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

**§ 28070. Punishment**

28070. A violation of this chapter by a dealer is a misdemeanor.

**Comment.** Section 28070 continues former Section 12082(d) without substantive change.

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

CHAPTER 6. RECORDKEEPING, BACKGROUND CHECKS, AND FEES RELATING TO  
SALE, LEASE, OR TRANSFER OF FIREARMS

Article 1. General Provisions Relating to the Register or the  
Record of Electronic or Telephonic Transfer

**§ 28100. Register or record of electronic or telephonic transfer**

28100. (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Article 2 (commencing with Section 28150).

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

(1) The loan of an unloaded firearm by a dealer to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(2) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.

(3) The sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

(4) The sale, delivery, or transfer of an unloaded firearm by a dealer who sells, delivers, or transfers the firearm to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(5) The sale, delivery, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler’s business.

(6) The sale, delivery, or transfer of an unloaded firearm by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555, if the firearm is intended as merchandise in the receiving dealer's business.

(7) The sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

(8) The loan of an unloaded firearm by a dealer who also operates a target facility which holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purpose of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or club or organization, if the firearm is kept at all times within the premises of the target range or on the premises of the club or organization.

(9) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the loan does not exceed 45 days from the date of delivery of the firearm by the dealer to the consultant-evaluator.

(10) The return of an unloaded firearm to the owner of that firearm by a dealer, if the owner initially delivered the firearm to the dealer for service or repair.

(11) The sale, delivery, or transfer of an unloaded firearm by a dealer to a person licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(c) A violation of this section is a misdemeanor.

**Comment.** Section 28100 continues former Section 12073 without substantive change.

For exceptions to provisions in this article and in Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16410 ("consultant-evaluator"), 16520 ("firearm"), 16630 ("gunsmith"), 16640 ("handgun"), 17340 ("wholesaler"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

#### **§ 28105. Requirements for preparation of register or record**

28105. (a)(1) The register required by Section 28100 shall be prepared by and obtained from the State Printer.

(2) The State Printer shall furnish the register only to dealers on application, at a cost to be determined by the Department of General Services.

(3) The Department of General Services shall determine the cost for each 100 leaves in quadruplicate, one original and three duplicates for the making of carbon copies.

(4) The original and duplicate copies shall differ in color, and shall be in the form provided by this chapter.

(b) Where the electronic transfer of applicant information is used, the Department of Justice shall develop the standards for all appropriate electronic

equipment and telephone numbers to effect the transfer of information to the department.

**Comment.** Section 28105 continues former Section 12074 without substantive change.

For exceptions to provisions in this article and in Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 28110. Duties relating to register**

28110. (a) The State Printer upon issuing a register shall forward to the Department of Justice both of the following:

(1) The name and business address of the dealer.

(2) The series and sheet numbers of the register.

(b) The register shall not be transferable.

(c) If the dealer moves the business to a different location, the dealer shall notify the department of that fact in writing within 48 hours.

**Comment.** Section 28110 continues former Section 12075 without substantive change.

For exceptions to provisions in this article and in Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

Article 2. Form of the Register or the Record of Electronic Transfer

**§ 28150. “Purchase,” “purchaser,” and “sale”**

28150. As used in this article,

(a) “Purchase” means the purchase, loan, or transfer of a firearm.

(b) “Purchaser” means the purchaser or transferee of a firearm or the person being loaned a firearm.

(c) “Sale” means the sale, loan, or transfer of a firearm.

**Comment.** Section 28150 continues former Section 12077(g) without substantive change.

See Section 16520 (“firearm”).

**§ 28155. Department of Justice to prescribe form of register and record of electronic transfer**

28155. The Department of Justice shall prescribe the form of the register and the record of electronic transfer pursuant to Section 28105.

**Comment.** Section 28155 continues former Section 12077(a) without substantive change.

**§ 28160. Form for handgun**

28160. (a) For handguns, the register or record of electronic transfer shall include all of the following information:

(1) The date and time of sale.

- (2) The make of firearm.
- (3) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.
- (4) Dealer waiting period exemption pursuant to Sections 26960 and 27660.
- (5) Dangerous weapons permit holder waiting period exemption pursuant to Sections 26965 and 27665.
- (6) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.
- (7) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.
- (8) For transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to former Sections 12805 and 12809.
- (9) For transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of this title, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4.
- (10) Manufacturer's name if stamped on the firearm.
- (11) Model name or number, if stamped on the firearm.
- (12) Serial number, if applicable.
- (13) Other number, if more than one serial number is stamped on the firearm.
- (14) Any identification number or mark assigned to the firearm pursuant to Section 23910.
- (15) Caliber.
- (16) Type of firearm.
- (17) If the firearm is new or used.
- (18) Barrel length.
- (19) Color of the firearm.
- (20) Full name of purchaser.
- (21) Purchaser's complete date of birth.
- (22) Purchaser's local address.
- (23) If current address is temporary, complete permanent address of purchaser.
- (24) Identification of purchaser.
- (25) Purchaser's place of birth (state or country).
- (26) Purchaser's complete telephone number.
- (27) Purchaser's occupation.
- (28) Purchaser's sex.
- (29) Purchaser's physical description.
- (30) All legal names and aliases ever used by the purchaser.
- (31) Yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in

Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, and whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.

(32) Signature of purchaser.

(33) Signature of salesperson, as a witness to the purchaser's signature.

(34) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.

(35) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.

(36) The establishment number, if assigned.

(37) The dealer's complete business telephone number.

(38) Any information required by Chapter 5 (commencing with Section 28050).

(39) Any information required to determine whether subdivision (f) of Section 27540 applies.

(40) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.

(b) Effective January 1, 2003, the purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) The firearms dealer shall record on the register or record of electronic transfer the date that the handgun is delivered.

**Comment.** Section 28160 continues former Section 12077(b) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16240 ("basic firearms safety certificate"), 16520 ("firearm"), 16640 ("handgun"), 16670 ("handgun safety certificate"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive"), 28150 ("purchase," "purchaser," and "sale").

#### **§ 28165. Form for firearm other than handgun**

28165. (a) For firearms other than handguns, the register or record of electronic transfer shall include all of the following information:

(1) The date and time of sale.

(2) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.

(3) Dangerous weapons permitholder waiting period exemption pursuant to Sections 26965 and 27665.

(4) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.

(5) Auction or event waiting period exemption pursuant to Sections 26955 and 27655.

(6) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(7) Full name of purchaser.

(8) Purchaser's complete date of birth.

(9) Purchaser's local address.

(10) If current address is temporary, complete permanent address of purchaser.

(11) Identification of purchaser.

(12) Purchaser's place of birth (state or country).

(13) Purchaser's complete telephone number.

(14) Purchaser's occupation.

(15) Purchaser's sex.

(16) Purchaser's physical description.

(17) All legal names and aliases ever used by the purchaser.

(18) Yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.

(19) Signature of purchaser.

(20) Signature of salesperson, as a witness to the purchaser's signature.

(21) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.

(22) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.

(23) The establishment number, if assigned.

(24) The dealer's complete business telephone number.

(25) Any information required by Chapter 5 (commencing with Section 28050).

(26) A statement of the penalties for any person signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.

(b) Effective January 1, 2003, the purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

**Comment.** Section 28165 continues former Section 12077(c) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

**§ 28170. Requirements relating to use of register**

28170. Where the register is used, the following shall apply:

(a) Dealers shall use ink to complete each document.

(b) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(c) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions, which shall include the information set forth in this section.

(d) One firearm transaction shall be reported on each record of sale document.

(e) For purposes of this section, a “transaction” means a single sale, loan, or transfer of any number of firearms that are not handguns.

**Comment.** Section 28170 continues former Section 12077(d) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

**§ 28175. Duty of dealer or salesperson to obtain complete information from purchaser**

28175. The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

**Comment.** Section 28175 continues former Section 12077(e) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

**§ 28180. Use of magnetic strip to obtain purchaser’s name, date of birth, and driver’s license or identification number**

28180. (a) Effective January 1, 2003, the purchaser’s name, date of birth, and driver’s license or identification number shall be obtained electronically from the magnetic strip on the purchaser’s driver’s license or identification and shall not be supplied by any other means, except as authorized by the department.

(b) The requirement of subdivision (a) shall not apply in either of the following cases:

(1) The purchaser’s identification consists of a military identification card.

(2) Due to technical limitations, the magnetic stripe reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(c) In the event that the dealer has reported to the department that the dealer's equipment has failed, information pursuant to this section shall be obtained by an alternative method to be determined by the department.

**Comment.** Section 28180 continues former Section 12077(f) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive"), 28150 ("purchase," "purchaser," and "sale").

### Article 3. Submission of Fees and Firearm Purchaser Information to the Department of Justice

#### § 28200. "Purchase," "purchaser," "sale," and "seller"

28200. As used in this article,

(a) "Purchase" means the purchase, loan, or transfer of a firearm.

(b) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(c) "Sale" means the sale, loan, or transfer of a firearm.

(d) "Seller" means, if the transaction is being conducted pursuant to Chapter 5 (commencing with Section 28050), the person selling, loaning, or transferring the firearm.

**Comment.** Section 28200 continues former Section 12076(l) without substantive change.

#### § 28205. Means of submitting firearm purchaser information to Department of Justice

28205. (a) Until January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department. The information shall be in one of the following formats:

(1) Submission of the register described in Article 2 (commencing with Section 28150).

(2) Electronic or telephonic transfer of the information contained in the register described in Article 2 (commencing with Section 28150).

(b) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(c) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

**Comment.** Section 28205 continues former Section 12076(a) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

For the consequences of violating this article, see Section 28250.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

**§ 28210. Use of register**

28210. (a)(1) Where the register is used, the purchaser of any firearm shall be required to present to the dealer clear evidence of the person’s identity and age.

(2) The dealer shall require the purchaser to sign the purchaser’s current legal name and affix the purchaser’s residence address and date of birth to the register in quadruplicate.

(3) The salesperson shall sign the register in quadruplicate, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register shall be punished as provided in Section 28250.

(c)(1) The original of the register shall be retained by the dealer in consecutive order.

(2) Each book of 50 originals shall become the permanent register of transactions, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent register of transactions shall be available for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. No information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(d) On the date of the application to purchase, two copies of the original sheet of the register shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(e) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser’s personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller’s copy, and the seller’s personal information from the purchaser’s copy.

**Comment.** Subdivision (a) of Section 28210 continues the first and second sentences of former Section 12076(b)(1) without substantive change.

Subdivision (b) cross-refers to Section 28250, which continues the third sentence of former Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive change.

Subdivision (c) continues former Section 12076(b)(2) without substantive change.

Subdivision (d) continues former Section 12076(b)(3) without substantive change.

Subdivision (e) continues former Section 12076(b)(4) without change.

Subdivision (f) continues former Section 12076(b)(5) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16400 (“clear evidence of the person’s identity and age”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

### **§ 28215. Use of electronic or telephonic transfer**

28215. (a)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present to the dealer clear evidence of the person’s identity and age.

(2) The dealer shall require the purchaser to sign the purchaser’s current legal name to the record of electronic or telephonic transfer.

(3) The salesperson shall sign the record of electronic or telephonic transfer, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the electronic or telephonic transfer shall be punished as provided in Section 28250.

(c)(1) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order.

(2) Each original shall become the permanent record of the transaction, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent record of the transaction shall be provided for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. No information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(d) On the date of the application to purchase, the record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer.

(e) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser’s personal information, as required pursuant to subdivision (a) of Section 28160 and

subdivision (a) of Section 28165, from the seller's copy, and the seller's personal information from the purchaser's copy.

**Comment.** Subdivision (a) of Section 28215 continues the first and second sentences of former Section 12076(c)(1) without substantive change.

Subdivision (b) cross-refers to Section 28250, which continues the third sentence of former Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive change.

Subdivision (c) continues former Section 12076(c)(3) without substantive change.

Subdivision (d) continues former Section 12076(c)(2) without substantive change.

Subdivision (e) continues former Section 12076(c)(4) without change.

Subdivision (f) continues former Section 12076(c)(5) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16400 ("clear evidence of the person's identity and age"), 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive"), 28200 ("purchase," "purchaser," "sale," and "seller").

#### **§ 28220. Background check by Department of Justice**

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of

that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

**Comment.** Section 28220 continues former Section 12076(d) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

For the consequences of violating this article, see Section 28250.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

#### **§ 28225. Fee to be charged by dealer**

28225. (a) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations.

(b) The fee under subdivision (a) shall be no more than is necessary to fund the following:

(1) The department for the cost of furnishing this information.

(2) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(3) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(4) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(5) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(7) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(8) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.

(9) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(10) The department for the costs associated with subdivisions (d) and (e) of Section 27560.

(11) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(c) The fee established pursuant to this section shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (3) of subdivision (b), the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (4) of subdivision (b), the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (5) of subdivision (b), the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subdivisions (d) and (e) of Section 27560, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(d) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in this section to the department.

**Comment.** Subdivisions (a)-(c) of Section 28225 continue former Section 12076(e) without substantive change.

Subdivision (d) continues former Section 12076(h) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

For the consequences of violating this article, see Section 28250.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

#### **§ 28230. Fee that may be charged by Department of Justice**

28230. (a) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(1) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to any provision listed in subdivision (a) of Section 16585.

(2) For the actual processing costs associated with the submission of a Dealers’ Record of Sale to the department.

(3) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to Section 26905, 27565, or 28000, or paragraph (1) of subdivision (a) of Section 27560.

(4) For the actual costs associated with the electronic or telephonic transfer of information pursuant to 28215.

(b) If the department charges a fee pursuant to paragraph (2) of subdivision (a), it shall be charged in the same amount to all categories of transaction that are within that paragraph.

(c) Any costs incurred by the Department of Justice to implement this section shall be reimbursed from fees collected and charged pursuant to this section. No fees shall be charged to the dealer pursuant to Section 28225 for implementing this section.

**Comment.** Section 28230 continues former Section 12076(f) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

#### **§ 28235. Dealers’ Record of Sale Special Account**

28235. All money received by the department pursuant to this article shall be deposited in the Dealers’ Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to any of the following:

- (a) This article.
- (b) Section 18910.
- (c) Section 27555.
- (d) Subdivisions (d) and (e) of Section 27560.
- (e) Article 6 (commencing with Section 28450).
- (f) Section 31110.
- (g) Section 31115.
- (h) Subdivision (a) of Section 32020.
- (i) Section 32670.
- (j) Section 33320.

**Comment.** Section 28235 continues former Section 12076(g) without substantive change.

**§ 28240. Method of calculating fees**

28240. (a) Only one fee shall be charged pursuant to this article for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or for the taking of possession of those firearms.

(b) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this article for the second and subsequent firearms that are part of that transaction.

(c) Only one fee shall be charged pursuant to this article for a single transaction on the same date for taking title or possession of any number of firearms pursuant to Section 26905, 27870, 27875, 27915, 27920, or 27925.

**Comment.** Subdivisions (a) and (b) of Section 28240 continue former Section 12076(i) without substantive change.

Subdivision (c) continues former Section 12076(j) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

For the consequences of violating this article, see Section 28250.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

**§ 28245. Application of California Tort Claims Act**

28245. Whenever the Department of Justice acts pursuant to this article as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department’s acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

**Comment.** Section 28245 continues former Section 12076(k) without substantive change.

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

**§ 28250. Punishment for violation of article, providing false information for firearm transaction, or failing to provide necessary information for firearm transaction**

28250. (a) Any person who does any of the following is guilty of a misdemeanor:

(1) Furnishing a fictitious name or address for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(2) Knowingly furnishing any incorrect information for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(3) Knowingly omitting any information required to be provided for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(4) Violating any provision of this article.

(b) Notwithstanding subdivision (a), any person who is prohibited from obtaining a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, who does any of the following shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months:

(1) Knowingly furnishes a fictitious name or address for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(2) Knowingly furnishes any incorrect information for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(3) Knowingly omits any information required to be provided for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

**Comment.** Section 28250 continues the third sentence of former Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive change. An erroneous reference to “the register” in former Section 12076(c)(1) has been replaced with a reference to “the electronic or telephonic transfer.”

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

Article 4. Firearms Safety and Enforcement Special Fund

**§ 28300. Firearms Safety and Enforcement Special Fund**

28300. (a) The Firearms Safety and Enforcement Special Fund is hereby established in the State Treasury and shall be administered by the Department of Justice.

(b) Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the Department of Justice, without regard to fiscal years, for the purpose of implementing and enforcing the provisions of Article 2 (commencing with Section 31610) of Chapter 4 of Division 10, enforcing Section 830.95, Title 2 (commencing with Section 12001) of Part 4, Sections 16000 to 16960, inclusive, Sections 16970 to 17230, inclusive, Sections 17240 to 21390, inclusive, and Sections 21590 to 34370, inclusive, and for the

establishment, maintenance, and upgrading of equipment and services necessary for firearms dealers to comply with Article 2 (commencing with Section 28150).

(c) The Department of Justice may require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund.

**Comment.** Section 28300 continues former Section 12076.5 without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 3 (commencing with Section 28200), see Article 5 (commencing with Section 28400).

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

## Article 5. Exceptions Relating to Law Enforcement

### **§ 28400. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

28400. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

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

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

**Comment.** Section 28400 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to “the preceding provisions of this article”).

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

**§ 28405. Exception for loan of firearm to peace officer employee for use in performing official duties**

28405. Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

**Comment.** Section 28405 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to "the preceding provisions of this article").

See Section 16520 ("firearm").

**§ 28410. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

28410. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

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

**Comment.** Section 28410 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to "the preceding provisions of this article").

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

**§ 28415. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

28415. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is

authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

**Comment.** Section 28415 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to “the preceding provisions of this article”).

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

## Article 6. Centralized List of Exempted Federal Firearms Licensees

### § 28450. Centralized list of exempted federal firearms licensees

28450. (a) Commencing January 1, 2008, the Department of Justice shall keep a centralized list of persons who identify themselves as being licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms whose licensed premises are within this state and who declare to the department an exemption from the firearms dealer licensing requirements of Section 26500.

(b) The list shall be known as the centralized list of exempted federal firearms licensees.

(c) To qualify for placement on the centralized list, an applicant shall do all of the following:

(1) Possess a valid federal firearms license pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms.

(2) Maintain eligibility under California law to possess firearms by possessing a current, valid certificate of eligibility pursuant to Section 26710.

(3) Maintain with the department a signed declaration enumerating the applicant’s statutory exemptions from licensing requirements of Section 26500.

**Comment.** Section 28450 continues former Section 12083(a) without substantive change, except the second sentence of paragraph (a)(3), which is continued without substantive change in Section 28455.

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

### § 28455. Punishment for misconduct in submitting declaration enumerating statutory exemptions from licensing requirements

28455. Any person furnishing a fictitious name, knowingly furnishing any incorrect information, or knowingly omitting any information for the declaration

under paragraph (3) of subdivision (c) of Section 28450 shall be guilty of a misdemeanor.

**Comment.** Section 28455 continues the second sentence of former Section 12083(a)(3) without substantive change.

**§ 28460. Fee**

28460. (a) Commencing January 1, 2008, the department shall assess an annual fee of one hundred fifteen dollars (\$115) to cover its costs of maintaining the centralized list of exempted federal firearms licensees prescribed by Section 28450, conducting inspections in accordance with this article, and for the cost of maintaining the firearm shipment verification number system described in Section 27555.

(b) The department may increase the fee at a rate not to exceed the increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(c) The fees collected shall be deposited in the Dealers' Record of Sale Special Account.

**Comment.** Section 28460 continues former Section 12083(b) without substantive change.

For the provision establishing the Dealers' Record of Sale Special Account, see Section 28235. See Section 16520 ("firearm").

**§ 28465. Restriction on importing or receiving firearms**

28465. (a) Any person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms whose licensed premises are within this state shall not import or receive firearms from any source unless listed on the centralized list of firearms dealers pursuant to Section 26715, or the centralized list of exempted federal firearms licensees pursuant to Section 28450, or the centralized list of firearms manufacturers pursuant to Section 29060.

(b) A violation of this section is a misdemeanor.

**Comment.** Section 28465 continues former Section 12083(c) without substantive change. See Section 16520 ("firearm").

**§ 28470. Maintaining record of verification number**

28470. (a) All persons on the centralized list of exempted federal firearms licensees prescribed by Section 28450 shall record and keep on file for three years, the verification number that shall accompany firearms received from other federal firearms licensees pursuant to Section 27555.

(b) A violation of this section is cause for immediate removal from the centralized list.

**Comment.** Section 28470 continues former Section 12083(d) without substantive change.

For another provision authorizing removal from the centralized list in specified circumstances, see Section 28485.

See Section 16520 ("firearm").

**§ 28475. Use of information from centralized list of exempted federal firearms licensees**

28475. Information compiled from the list described in Section 28450 shall be made available for the following purposes:

(a) Requests from local, state, and federal law enforcing agencies and the duly constituted city, county, and city and county licensing authorities.

(b) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

**Comment.** Section 28475 continues former Section 12083(e) without substantive change. See Section 16520 (“firearm”).

**§ 28480. Inspection of business premises**

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

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

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

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

(2) Verification numbers issued pursuant to Section 27555.

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

**Comment.** Section 28480 continues former Section 12083(f) without substantive change. See Section 16520 (“firearm”).

**§ 28485. Removal from centralized list of exempted federal firearms licensees**

28485. The department may remove from the centralized list described in Section 28450 any person who violates a provision listed in Section 16575.

**Comment.** Section 28485 continues former Section 12083(g) without substantive change.

See also Section 28470, which requires recording and retention of verification numbers and states that violation of that requirement is cause for immediate removal from the centralized list of exempted federal firearms licensees.

**§ 28490. Regulations**

28490. The department may adopt regulations as necessary to carry out the provisions of this article, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2, and Sections 27555 to 27570, inclusive. The department shall work in consultation with the Bureau of Alcohol,

Tobacco, Firearms, and Explosives to ensure that state regulations are not duplicative of federal regulations.

**Comment.** Section 28490 continues former Section 12083(h) without substantive change.

## DIVISION 7. MANUFACTURE OF FIREARMS

### CHAPTER 1. LICENSE REQUIREMENT FOR MANUFACTURE OF FIREARMS

#### § 29010. Prohibition against unlicensed manufacture of firearms

29010. (a) Commencing July 1, 1999, no person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may manufacture firearms within this state unless licensed pursuant to Chapter 2 (commencing with Section 29030).

(b) Subdivision (a) does not apply to a person licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code who manufactures fewer than 100 firearms in a calendar year within this state.

(c) If a person, firm, or corporation required to be licensed pursuant to Chapter 2 (commencing with Section 29030) ceases operations, then the records required pursuant to Section 29130 and subdivision (b) of Section 29115 shall be forwarded to the federal Bureau of Alcohol, Tobacco, and Firearms within three days of the closure of business.

(d) A violation of this section is a misdemeanor.

**Comment.** Section 29010 continues subdivisions (a)-(d) of former Section 12085 without substantive change.

See Section 16520 (“firearm”).

### CHAPTER 2. ISSUANCE, FORFEITURE, AND CONDITIONS OF LICENSE TO MANUFACTURE FIREARMS

#### Article 1. Preliminary Provisions

#### § 29030. “Licensee”

29030. In this chapter, “licensee” means a person, firm, or corporation that satisfies both of the following:

(a) Has a license issued pursuant to subdivision (b) of Section 29050.

(b) Is among those recorded in the centralized list specified in Section 29060.

**Comment.** Section 29030 continues former Section 12086(a)(1) without substantive change.

## Article 2. Licensing Process

### § 29050. Issuance of license to manufacture firearms

29050. (a) The Department of Justice shall accept applications for, and shall grant licenses permitting, the manufacture of firearms within this state.

(b) No license shall be granted by the department unless and until the applicant presents proof that the applicant has all of the following:

(1) A valid license to manufacture firearms issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(2) Any regulatory or business license required by local government.

(3) A valid seller's permit or resale certificate issued by the State Board of Equalization, if applicable.

(4) A certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(c) A license granted by the department shall be valid for no more than one year from the date of issuance and shall be in the form prescribed by the Attorney General.

(d) The department shall inform applicants who are denied licenses of the reasons for the denial in writing.

**Comment.** Subdivision (a) of Section 29050 continues the first sentence of former Section 12086(b)(1) without substantive change.

Subdivision (b) continues former Section 12086(b)(2) without substantive change.

Subdivision (c) continues former Section 12086(b)(4) without substantive change.

Subdivision (d) continues the second sentence of former Section 12086(b)(1) without substantive change.

See Sections 16450 ("department"), 16520 ("firearm").

### § 29055. Fees and regulations

29055. (a) The department shall adopt regulations to administer this chapter and Chapter 1 (commencing with Section 29010).

(b) The department shall recover the full costs of administering the program by collecting fees from license applicants. Recoverable costs shall include, but not be limited to, the costs of inspections and maintaining a centralized list of licensed firearm manufacturers.

(c) The fee for licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state shall not exceed (i) two hundred fifty dollars (\$250) per year or (ii) the actual costs of inspections and maintaining a centralized list of firearm manufacturers and any other duties of the department required pursuant to this chapter and Chapter 1 (commencing with Section 29010), whichever is less.

**Comment.** Section 29055 continues former Section 12086(b)(3) without substantive change.

See Sections 16450 ("department"), 16520 ("firearm").

**§ 29060. Centralized list of persons licensed to manufacture firearms**

29060. (a) Except as otherwise provided in subdivisions (a) and (b) of Section 20965, the Department of Justice shall maintain a centralized list of all persons licensed pursuant to subdivision (b) of Section 29050.

(b) The centralized list shall be provided annually to each police department and county sheriff within the state.

**Comment.** Section 29060 continues former Section 12086(f)(1) without substantive change.

**§ 29065. Revocation of license**

29065. (a) Except as provided in subdivision (b), the license of any licensee who violates this chapter may be revoked.

(b) The license of any licensee who knowingly or with gross negligence violates this chapter or violates this chapter three times shall be revoked, and that person, firm, or corporation shall become permanently ineligible to obtain a license pursuant to this chapter.

(c) Upon the revocation of the license, notification shall be provided to local law enforcement authorities in the jurisdiction where the licensee's business is located and to the federal Bureau of Alcohol, Tobacco, and Firearms.

**Comment.** Subdivision (a) of Section 29065 continues former Section 12086(f)(2) without substantive change.

Subdivision (b) continues former Section 12086(f)(3) without substantive change. For guidance in applying this subdivision, see Section 16010 (continuation of existing law). See also Section 16015 (determining existence of prior conviction).

Subdivision (c) continues former Section 12086(g)(1) without substantive change.

See Section 29030 ("licensee").

**§ 29070. Release of information about licensees**

29070. (a) The department shall make information concerning the location and name of a licensee available, upon request, for the following purposes only:

(1) Law enforcement.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(b) Notwithstanding subdivision (a), the department shall make the name and business address of a licensee available to any person upon written request.

**Comment.** Subdivision (a) of Section 29070 continues former Section 12086(g)(2) without substantive change.

Subdivision (b) continues former Section 12086(g)(3) without substantive change.

See Sections 16450 ("department"), 16520 ("firearm"), 29030 ("licensee").

**§ 29075. Information to be maintained and made available by Department of Justice**

29075. The Department of Justice shall maintain and make available upon request information concerning all of the following:

(a) The number of inspections conducted and the amount of fees collected pursuant to Section 29055.

(b) The number of licensees removed from the centralized list described in Sections 29060 and 29065.

(c) The number of licensees found to have violated this chapter.

**Comment.** Section 29075 continues former Section 12086(h) without substantive change. See Section 29030 (“licensee”).

### Article 3. Prohibitions and Requirements Applicable to Licensee

#### § 29100. Compliance with prohibitions and requirements

29100. A licensee shall comply with the prohibitions and requirements described in this article.

**Comment.** Section 29100 continues the introductory clause of former Section 12086(c) without substantive change.

See Section 29030 (“licensee”).

#### § 29105. Place of conducting business

29105. The business of a licensee shall be conducted only in the buildings designated in the license.

**Comment.** Section 29105 continues former Section 12086(c)(1) without substantive change.

See Section 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

#### § 29110. Display of license

29110. A licensee shall display the license or a copy thereof, certified by the department, on the premises where it can easily be seen.

**Comment.** Section 29110 continues former Section 12086(c)(2) without substantive change.

See Sections 16450 (“department”), 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

#### § 29115. Lost or stolen firearm

29115. (a) Whenever a licensee discovers that a firearm has been stolen or is missing from the licensee’s premises, the licensee shall report the loss or theft within 48 hours of the discovery to all of the following:

(1) The Department of Justice, in a manner prescribed by the department.

(2) The federal Bureau of Alcohol, Tobacco, and Firearms.

(3) The police department in the city or city and county where the building designated in the license is located.

(4) If there is no police department in the city or city and county where the building designated in the license is located, the sheriff of the county where the building designated in the license is located.

(b) For at least 10 years, the licensee shall maintain records of all firearms that are lost or stolen, as prescribed by the Department of Justice.

**Comment.** Subdivision (a) of Section 29115 continues former Section 12086(c)(3) without substantive change.

Subdivision (b) continues former Section 12086(c)(10) without substantive change.

See Sections 16520 (“firearm”), 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

**§ 29120. Restrictions on employee access to firearms**

29120. (a) A licensee shall require that each employee obtain a certificate of eligibility pursuant to Section 26710, which shall be renewed annually, before being allowed to come into contact with any firearm.

(b) A licensee shall prohibit any employee who the licensee knows or reasonably should know is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm from coming into contact with any firearm.

**Comment.** Section 29120 continues former Section 12086(c)(4) without substantive change.

See Sections 16520 (“firearm”), 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

**§ 29125. Unique serial number on each firearm**

29125. (a) Each firearm a licensee manufactures in this state shall be identified with a unique serial number stamped onto the firearm utilizing the method of compression stamping.

(b) Licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state may serialize long guns only by utilizing a method of compression stamping or by engraving the serial number onto the firearm.

(c) The licensee shall stamp the serial number onto the firearm within one business day of the time the frame or receiver is manufactured.

(d) The licensee shall not use the same serial number for more than one firearm.

**Comment.** Section 29125 continues former Section 12086(c)(5) without substantive change.

See Sections 16520 (“firearm”), 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

**§ 29130. Recordkeeping requirements**

29130. (a) A licensee shall record the type, model, caliber, or gauge, and serial number of each firearm manufactured or acquired, and the date of the manufacture or acquisition, within one business day of the manufacture or acquisition.

(b) The licensee shall maintain permanently within the building designated in the license the records required pursuant to subdivision (a).

(c) Backup copies of the records described in subdivision (a), whether electronic or hard copy, shall be made at least once a month. These backup records shall be maintained in a facility separate from the one in which the primary records are stored.

**Comment.** Section 29130 continues former Section 12086(c)(6) without substantive change.

See Sections 16520 (“firearm”), 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

**§ 29135. Inspections**

29135. (a) A licensee shall allow the department to inspect the building designated in the license to ensure compliance with the requirements of this chapter.

(b) A licensee shall allow any peace officer, authorized law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, to inspect facilities and records during business hours to ensure compliance with the requirements of this chapter.

**Comment.** Section 29135 continues former Section 12086(c)(7) without substantive change.

See Section 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

**§ 29140. Storage of firearms and barrels for firearms in secure facility**

29140. A licensee shall store in a secure facility all firearms manufactured and all barrels for firearms manufactured.

**Comment.** Section 29140 continues former Section 12086(c)(8) without substantive change.

See Sections 16520 (“firearm”), 29141 (“secure facility” for firearm storage by manufacturer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year). See also Section 29100 (compliance with prohibitions and requirements).

**§ 29141. “Secure facility” for firearm storage by manufacturer**

29141. Except as otherwise provided in Section 29142, as used in this chapter, “secure facility” means that the facility satisfies all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Comment.** Section 29141 continues former Section 12086(d) without substantive change.

See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage by dealer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year).

**§ 29142. Special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year**

29142. (a) For purposes of this chapter, any licensed manufacturer who produces fewer than 500 firearms in a calendar year within this state may maintain a “secure facility” by complying with all of the requirements described in Section 29141, or may design a security plan that is approved by the Department of Justice or the federal Bureau of Alcohol, Tobacco, and Firearms.

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

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

**Comment.** Section 29142 continues former Section 12086(e) without substantive change.

See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage by dealer), 29141 (“secure facility” for firearm storage by manufacturer).

**§ 29150. Notification requirement**

29150. (a) A licensee shall notify the chief of police or other head of the municipal police department in the city or city and county where the building designated in the license is located that the licensee is manufacturing firearms within that city or city and county and the location of the licensed premises.

(b) If there is no police department in the city or city and county where the building designated in the license is located, the licensee shall notify the sheriff of the county where the building designated in the license is located that the licensee is manufacturing firearms within that county and the location of the licensed premises.

**Comment.** Section 29150 continues former Section 12086(c)(9) without substantive change. See Sections 16520 (“firearm”), 29030 (“licensee”). See also Section 29100 (compliance with prohibitions and requirements).

## DIVISION 8. MISCELLANEOUS RULES RELATING TO FIREARMS GENERALLY

### CHAPTER 1. MISCELLANEOUS PROVISIONS

#### § 29300. Firearm of any nature constitutes nuisance under specified circumstances

29300. (a) Except as provided in subdivision (c), a firearm of any nature owned or possessed in violation of Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Chapter 3 (commencing with Section 8100) of Division 5 of the Welfare and Institutions Code, or used in the commission of any misdemeanor as provided in this code, any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance, and is subject to Sections 18000 and 18005.

(b) A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) A firearm is not a nuisance pursuant to this section if the firearm owner disposes of the firearm pursuant to Section 29810.

(d) This section does not apply to any of the following:

- (1) Any firearm in the possession of the Department of Fish and Game.
- (2) Any firearm that was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto.
- (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public Resources Code.

**Comment.** Subdivision (a) of Section 29300 continues the first sentence of former Section 12028(b)(1) without substantive change.

In combination with Section 18000(c), subdivision (b) continues the second sentence of former Section 12028(b)(1) without substantive change.

Subdivision (c) continues former Section 12028(b)(2) without substantive change.

In combination with Section 25700, subdivision (d) continues former Section 12028(e) without substantive change.

See Section 16520 (“firearm”).

## CHAPTER 2. ENTERTAINMENT FIREARMS PERMIT

### § 29500. Entertainment firearms permit

29500. Any person who is at least 21 years of age may apply for an entertainment firearms permit from the Department of Justice. An entertainment firearms permit authorizes the permit holder to possess firearms loaned to the permit holder for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

**Comment.** Section 29500 continues the first sentence of former Section 12081(a) without substantive change.

See Section 16520 (“firearm”).

### § 29505. Application form

29505. (a) Requests for entertainment firearms permits shall be made on application forms prescribed by the Department of Justice that require applicant information, including, but not limited to, the following:

- (1) Complete name.
- (2) Residential and mailing address.
- (3) Telephone number.
- (4) Date of birth.
- (5) Place of birth.
- (6) Country of citizenship and, if other than United States, alien number or admission number.
- (7) Valid driver’s license number or valid identification card number issued by the California Department of Motor Vehicles.
- (8) Social security number.
- (9) Signature.

(b) All applications must be submitted with the appropriate fee as specified in Section 29510.

**Comment.** Subdivision (a) of Section 29505 continues former Section 12081(b)(1) without substantive change.

Subdivision (b) continues former Section 12081(b)(2) without substantive change.

### § 29510. Application fee

29510. (a) The Department of Justice shall recover the full costs of administering the entertainment firearms permit program by assessing the following application fees:

(1) For the initial application: one hundred four dollars (\$104). Of this sum, fifty-six dollars (\$56) shall be deposited into the Fingerprint Fee Account, and forty-eight dollars (\$48) shall be deposited into the Dealer Record of Sale Account.

(2) For each annual renewal application: twenty-nine dollars (\$29), which shall be deposited into the Dealer Record of Sale Account.

(b) The department shall annually review and shall adjust the fees specified in subdivision (a), if necessary, to fully fund, but not to exceed the actual costs of, the permit program provided for by this chapter, including enforcement of the program.

**Comment.** Subdivision (a) of Section 29510 continues former Section 12081(c) without substantive change.

Subdivision (b) continues former Section 12081(e) without substantive change.

**§ 29515. No entertainment firearms permit for person prohibited from possessing or receiving firearms**

29515. (a) Upon receipt of an initial or renewal application submitted as specified in Sections 29505, 29520, and 29525, the department shall examine its records, records the department is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, and records of the National Instant Criminal Background Check System as described in subsection (t) of Section 922 of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or receiving firearms.

(b) The department shall issue an entertainment firearms permit only if the records indicate that the applicant is not prohibited from possessing or receiving firearms pursuant to any federal, state, or local law.

**Comment.** Section 29515 continues the second and third sentences of former Section 12081(a) without substantive change.

See Section 16520 (“firearm”).

**§ 29520. Arrests and convictions of applicant**

29520. (a) An initial application for an entertainment firearms permit shall require the submission of fingerprint images and related information in a manner prescribed by the department, for the purpose of obtaining information as to the existence and nature of a record of state or federal level convictions and state or federal level arrests for which the department establishes that the individual was released on bail or on the individual’s own recognizance pending trial as needed to determine whether the applicant may be issued the permit. Requests for federal level criminal offender record information received by the Department of Justice pursuant to this chapter shall be forwarded by the department to the Federal Bureau of Investigation.

(b) The Department of Justice shall review the criminal offender record information specified in subdivision (l) of Section 11105 for entertainment firearms permit applicants.

(c) The Department of Justice shall review subsequent arrests, pursuant to Section 11105.2, to determine the continuing validity of the permit as specified in Section 29530 for all entertainment firearms permit holders.

**Comment.** Subdivision (a) of Section 29520 continues former Section 12081(b)(3) without substantive change.

Subdivision (b) continues former Section 12081(b)(4) without substantive change.

Subdivision (c) continues former Section 12081(b)(5) without substantive change. An erroneous cross-reference to former Section 12081(d) has been replaced with a cross-reference to Section 29530, which continues the substance of former Section 12081(f).

**§ 29525. Furnishing fictitious name, knowingly furnishing incorrect information, or knowingly omitting required information on application**

29525. Any person who furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided on an application for an entertainment firearms permit is guilty of a misdemeanor.

**Comment.** Section 29525 continues former Section 12081(b)(6) without substantive change.

**§ 29530. Duration of entertainment firearms permit**

29530. (a) An entertainment firearms permit issued by the Department of Justice shall be valid for one year from the date of issuance.

(b) If at any time during that year the permitholder becomes prohibited from possessing or receiving firearms pursuant to any federal, state, or local law, the entertainment firearms permit shall be no longer valid.

**Comment.** Section 29530 continues former Section 12081(f) without substantive change. See Section 16520 (“firearm”).

**§ 29535. Exemption from Administrative Procedure Act**

29535. The implementation of Sections 29500, 29505, 29515, 29520, and 29525, and of subdivision (a) of Section 29510, by the department is exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

**Comment.** Section 29535 continues former Section 12081(d) without substantive change.

DIVISION 9. SPECIAL FIREARM RULES RELATING TO  
PARTICULAR PERSONS

CHAPTER 1. JUVENILE

Article 1. Possession of Handgun

**§ 29610. Prohibition on possession of handgun by minor**

29610. A minor shall not possess a pistol, revolver, or other firearm capable of being concealed upon the person.

**Comment.** Section 29610 continues former Section 12101(a)(1) without substantive change.

For exceptions to this provision, see Section 29615 (exceptions). For the consequences of violating this provision, see Sections 29700 (punishment for violation of chapter), 29705 (compulsory participation in parenting education).

For further guidance on firearm restrictions relating to minors and persons under age 21, see Sections 27505 (person, corporation, or firm that sells, loans, or transfers firearm to minor or

handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21), 27945 (exception for certain situations involving minor), 29650 (prohibition on possession of live ammunition by minor), 29655 (exceptions).

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 29615. Exceptions**

29615. Section 29610 shall not apply if one of the following circumstances exists:

(a) The minor is accompanied by a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves this use of a firearm.

(b) The minor is accompanied by a responsible adult, the minor has the prior written consent of a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(c) The minor is at least 16 years of age, the minor has the prior written consent of a parent or legal guardian and the minor is actively engaged in, or is in direct transit to or from, a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(d) The minor has the prior written consent of a parent or legal guardian, the minor is on lands owned or lawfully possessed by the parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

**Comment.** Section 29615 continues former Section 12101(a)(2) without substantive change. See Sections 16520 (“firearm”), 17070 (“responsible adult”).

Article 2. Possession of Live Ammunition

**§ 29650. Prohibition on possession of live ammunition by minor**

29650. A minor shall not possess live ammunition.

**Comment.** Section 29650 continues former Section 12101(b)(1) without substantive change.

For exceptions to this provision, see Section 29655 (exceptions). For the consequences of violating this provision, see Sections 29700 (punishment for violation of chapter), 29705 (compulsory participation in parenting education).

For further guidance on firearm restrictions relating to minors and persons under age 21, see Sections 27505 (person, corporation, or firm that sells, loans, or transfers firearm to minor or handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21), 27945 (exception for certain situations involving minor), 29610 (prohibition on possession of handgun by minor), 29615 (exceptions).

#### **§ 29655. Exceptions**

29655. Section 29650 shall not apply if one of the following circumstances exists:

(a) The minor has the written consent of a parent or legal guardian to possess live ammunition.

(b) The minor is accompanied by a parent or legal guardian.

(c) The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm.

**Comment.** Section 29655 continues former Section 12101(b)(2) without substantive change. See Section 16520 (“firearm”).

### Article 3. Punishment

#### **§ 29700. Punishment for violation of chapter**

29700. Every minor who violates this chapter shall be punished as follows:

(a) By imprisonment in the state prison or in a county jail if one of the following applies:

(1) The minor has been found guilty previously of violating this chapter.

(2) The minor has been found guilty previously of an offense specified in Section 29905, 32625, or 33410, or an offense specified in any provision listed in Section 16590.

(3) The minor has been found guilty of a violation of Section 29610.

(b) Violations of this chapter other than those violations specified in subdivision (a) shall be punishable as a misdemeanor.

**Comment.** Section 29700 continues former Section 12101(c) without substantive change. A cross-reference to former Section 12560 has not been continued, because that provision was repealed in 1990. See 1990 Cal. Stat. ch. 9, § 14.

For guidance in applying paragraphs (a)(1) and (a)(2), see Section 16015 (determining existence of prior conviction). For requirements a court may impose on a parent or guardian of a minor who violates this chapter, see Section 29705 (compulsory participation in parenting education).

**§ 29705. Compulsory participation in parenting education**

29705. In a proceeding to enforce this chapter brought pursuant to Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the court may require the custodial parent or legal guardian of a minor who violates this chapter to participate in classes on parenting education that meet the requirements established in Section 16507.7 of the Welfare and Institutions Code.

**Comment.** Section 29705 continues former Section 12101(d) without substantive change. An incomplete cross-reference to an article in the Welfare and Institutions Code has been corrected.

For guidance on punishment of a minor who violates this chapter, see Section 29700 (punishment).

Article 4. Legislative Intent

**§ 29750. Intent of 1994 amendments**

29750. In enacting the amendments to former Sections 12078 and 12101 by Section 10 of Chapter 33 of the Statutes of 1994, First Extraordinary Session, it was not the intent of the Legislature to expand or narrow the application of the then-existing statutory and judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others.

**Comment.** Section 29750 continues former Section 12101(f) without substantive change. See Section 16520 (“firearm”).

CHAPTER 2. PERSON CONVICTED OF SPECIFIED OFFENSE, ADDICTED TO  
NARCOTIC, OR SUBJECT TO COURT ORDER

Article 1. Prohibitions on Firearm Access

**§ 29800. Firearm access by person convicted of felony, addicted to narcotic drug, or convicted of other specified offense**

29800. (a)(1) Any person who has been convicted of a felony under the laws of the United States, the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 23515, or who is addicted to the use of any narcotic drug, and who owns, purchases, receives, or has in possession or under custody or control any firearm is guilty of a felony.

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

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 23515, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court

under Section 707 of the Welfare and Institutions Code, and who owns or has in possession or under custody or control any firearm is guilty of a felony.

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

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

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

**Comment.** Subdivision (a) of Section 29800 continues former Section 12021(a) without substantive change.

Subdivision (b) continues former Section 12021(b) without substantive change.

For an exemption from the prohibitions in subdivisions (a) and (b), see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820). For a notice requirement relating to those prohibitions, see Section 29810 (notice to person who is subject to Section 29800 or 29805).

Subdivision (c) continues former Section 12021(f) without substantive change.

See Section 16520 (“firearm”).

**§ 29805. Firearm access by person convicted of misdemeanor violation of certain statutes or other specified offense**

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

**Comment.** Section 29805 continues former Section 12021(c)(1) without substantive change.

For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820). For guidance on petitioning for relief from this provision, see Sections 29855 (petition by peace officer for relief from prohibition in Section 29805) and 29860 (petition by person who was convicted of offense before that offense was added to Section 29805). For guidance on false arrest arising from enforcement of this provision, see Section

29865 (immunity from liability for false arrest). For a notice requirement relating to this provision, see Section 29810 (notice to person who is subject to Section 29800 or 29805).

See Section 16520 (“firearm”).

**§ 29810. Notice to person who is subject to Section 29800 or 29805**

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms.

(b) Failure to provide the notice described in subdivision (a) shall not be a defense to a violation of this chapter.

**Comment.** Section 29810 continues former Section 12021(d)(2) without substantive change. See Section 16520 (“firearm”).

**§ 29815. Firearm access by person subject to firearm restriction as express condition of probation**

29815. (a) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, purchases, receives, or has in possession or under custody or control, any firearm, but who is not subject to Section 29805 or subdivision (a) of Section 29800, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(b) The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this section. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

**Comment.** Subdivision (a) of Section 29815 continues the first sentence of former Section 12021(d)(1) without substantive change. For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820).

Subdivision (b) continues the second and third sentences of former Section 12021(d)(1) without substantive change.

See Section 16520 (“firearm”).

**§ 29820. Firearm access by person adjudged ward of juvenile court, under specified circumstances**

29820. (a) This section applies to any person who satisfies both of the following requirements:

(1) The person is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in Section 29805, or

any offense described in Section 25850, subdivision (a) of Section 25400, or subdivision (a) of Section 26100.

(2) The person is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in Section 29805, or any offense described in Section 25850, subdivision (a) of Section 25400, or subdivision (a) of Section 26100.

(b) Any person described in subdivision (a) shall not own, or have in possession or under custody or control, any firearm until the age of 30 years.

(c) A violation of this section shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(d) The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this section may be used to determine eligibility to acquire a firearm.

**Comment.** Subdivisions (a) and (b) of Section 29820 continue the first sentence of former Section 12021(e) without substantive change.

Subdivision (c) continues the second sentence of former Section 12021(e) without substantive change.

Subdivision (d) continues the third and fourth sentences of former Section 12021(e) without substantive change.

For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820).

See Section 16520 (“firearm”).

**§ 29825. Firearm access by person subject to temporary restraining order, injunction, or protective order**

29825. (a) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that the person is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(b) Every person who owns or possesses a firearm knowing that the person is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a

public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) If probation is granted upon conviction of a violation of this section, the court shall impose probation consistent with Section 1203.097.

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

**Comment.** Subdivision (a) of Section 29825 continues former Section 12021(g)(1) without substantive change.

Subdivision (b) continues former Section 12021(g)(2) without substantive change.

Subdivision (c) continues former Section 12021(g)(4) without substantive change.

Subdivision (d) continues former Section 12021(g)(3) without substantive change.

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

## Article 2. Exemption or Petition for Relief

### § 29850. Justifiable violation of Section 29800, 29805, 29815, or 29820

29850. (a) A violation of Section 29800, 29805, 29815, or 29820 is justifiable where all of the following conditions are met:

(1) The person found the firearm or took the firearm from a person who was committing a crime against the person who found or took the firearm.

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

(3) If the firearm was transported to a law enforcement agency, it was transported in accordance with subdivision (b) of Section 25570.

(4) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.

(b) Upon the trial for violating Section 29800, 29805, 29815, or 29820, the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this section.

(c) The defendant has the burden of proving by a preponderance of the evidence that the defendant comes within the provisions of the exemption created by this section.

**Comment.** Section 29850 continues former Section 12021(h) without substantive change.

See Section 16520 (“firearm”).

**§ 29855. Petition by peace officer for relief from prohibition in Section 29805**

29855. (a) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by Section 29805 because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition.

(b) The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner.

(c) Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing.

(d) Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

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

(2) Finds that the petitioner is not within a prohibited class as specified in Section 29815, 29820, 29825, or 29900, or subdivision (a) or (b) of Section 29800, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) Finds that the petitioner does not have a previous conviction under Section 29805 no matter when the prior conviction occurred.

(e) In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under Section 29805, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this section in cases in which relief is warranted. However, nothing in this section shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by Section 29805.

**Comment.** Section 29855 continues former Section 12021(c)(2) without substantive change.

For guidance on false arrest arising from the enforcement of Section 29805, see Section 29865 (immunity from liability for false arrest).

See Section 16520 ("firearm").

**§ 29860. Petition by person who was convicted of offense before that offense was added to Section 29805**

29860. (a) Any person who is subject to the prohibition imposed by Section 29805 because of a conviction of an offense prior to that offense being added to Section 29805 may petition the court only once for relief from this prohibition.

(b) The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner.

(c) Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing.

(d) Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

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

(2) Finds that the petitioner is not within a prohibited class as specified in Section 29815, 29820, 29825, or 29900, or subdivision (a) or (b) of Section 29800, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) Finds that the petitioner does not have a previous conviction under Section 29805, no matter when the prior conviction occurred.

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

**Comment.** Section 29860 continues former Section 12021(c)(3) without substantive change.

For guidance on false arrest arising from enforcement of Section 29805, see Section 29865 (immunity from liability for false arrest).

See Section 16520 (“firearm”).

**§ 29865. Immunity from liability for false arrest**

29865. Law enforcement officials who enforce the prohibition specified in Section 29805 against a person who has been granted relief pursuant to Section 29855 or 29860 shall be immune from any liability for false arrest arising from the enforcement of Section 29805 unless the person has in possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

**Comment.** Section 29865 continues former Section 12021(c)(4) without substantive change.

### Article 3. Miscellaneous Provisions

#### **§ 29875. Protocol for implementation of Section 12021, to be completed by January 1, 2005**

29875. Subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of former Section 12021, which is continued in this chapter. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to any provision of law. The protocol shall be completed on or before January 1, 2005.

**Comment.** Section 29875 continues former Section 12021(i) without substantive change. See Section 16520 (“firearm”).

#### CHAPTER 3. PERSON CONVICTED OF VIOLENT OFFENSE

#### **§ 29900. Firearm possession or control by person convicted of violent offense**

29900. (a)(1) Notwithstanding subdivision (a) of Section 29800, any person who has been previously convicted of any of the offenses listed in Section 29905 and who owns or has in possession or under custody or control any firearm is guilty of a felony.

(2) A dismissal of an accusatory pleading pursuant to Section 1203.4a involving an offense set forth in Section 29905 does not affect the finding of a previous conviction.

(3) If probation is granted, or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.

(b)(1) Any person previously convicted of any of the offenses listed in Section 29905 which conviction results from certification by the juvenile court for prosecution as an adult in adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in possession or under custody or control any firearm, is guilty of a felony.

(2) If probation is granted, or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.

(c) The court shall apply the minimum sentence as specified in subdivisions (a) and (b) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the imprisonment required by subdivisions (a) and (b), or by granting

probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a) and (b), in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

**Comment.** Subdivision (a) of Section 29900 continues former Section 12021.1(a) without substantive change.

Subdivision (b) continues former Section 12021.1(c) without substantive change.

Subdivision (c) continues former Section 12021.1(d) without substantive change.

See Section 16520 (“firearm”).

**§ 29905. Violent offense**

29905. (a) As used in this chapter, a violent offense includes any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape.
- (4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (5) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (6) Lewd acts on a child under the age of 14 years.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any other felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven.
- (9) Attempted murder.
- (10) Assault with intent to commit rape or robbery.
- (11) Assault with a deadly weapon or instrument on a peace officer.
- (12) Assault by a life prisoner on a noninmate.
- (13) Assault with a deadly weapon by an inmate.
- (14) Arson.
- (15) Exploding a destructive device or any explosive with intent to injure.
- (16) Exploding a destructive device or any explosive causing great bodily injury.
- (17) Exploding a destructive device or any explosive with intent to murder.
- (18) Robbery.
- (19) Kidnapping.
- (20) Taking of a hostage by an inmate of a state prison.
- (21) Attempt to commit a felony punishable by death or imprisonment in the state prison for life.
- (22) Any felony in which the defendant personally used a dangerous or deadly weapon.
- (23) Escape from a state prison by use of force or violence.
- (24) Assault with a deadly weapon or force likely to produce great bodily injury.
- (25) Any felony violation of Section 186.22.

(26) Any offense enumerated in subdivision (a), (b), or (d) of Section 23515.

(27) Carjacking.

(28) Any offense enumerated in subdivision (c) of Section 23515 if the person has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417.

(b) As used in this chapter, a violent offense also includes any attempt to commit a crime listed in subdivision (a) other than an assault.

**Comment.** Section 29905 continues former Section 12021.1(b) without substantive change. See Section 16520 (“firearm”).

#### CHAPTER 4. PROHIBITED ARMED PERSONS FILE

##### § 30000. Prohibited Armed Persons File

30000. (a) The Attorney General shall establish and maintain an online database to be known as the Prohibited Armed Persons File. The purpose of the file is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm.

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

**Comment.** Section 30000 continues former Section 12010 without substantive change. See Section 16520 (“firearm”).

##### § 30005. Use of Prohibited Armed Persons File

30005. The Prohibited Armed Persons File database shall function as follows:

(a) Upon entry into the Automated Criminal History System of a disposition for a conviction of any felony, a conviction for any firearms-prohibiting charge specified in Chapter 2 (commencing with Section 29800), a conviction for an offense described in Chapter 3 (commencing with Section 29900), a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited by state or federal law from acquiring, owning, or possessing firearms, the department shall determine if

the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration.

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

- (1) The subject's name.
- (2) The subject's date of birth.
- (3) The subject's physical description.
- (4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.
- (5) The basis of the firearms possession prohibition.
- (6) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System.

**Comment.** Section 30005 continues former Section 12011 without substantive change. See Section 16520 ("firearm").

#### **§ 30010. Assistance by Attorney General**

30010. The Attorney General shall provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm.

**Comment.** Section 30010 continues former Section 12012 without substantive change. See Section 16520 ("firearm").

### CHAPTER 5. FIREARMS ELIGIBILITY CHECK

#### Article 1. Firearms Eligibility Check

##### **§ 30105. Firearms eligibility check**

30105. (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the information required by Section 28165 to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars (\$20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department.

(d) Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department's notification shall state either "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed."

(e) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(f) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's Web site.

(g) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(h) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(i) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (d) the following statements:

"No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 30105 of the Penal Code. A violation of these provisions is a misdemeanor."

"If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required."

**Comment.** Section 30105 continues former Section 12077.5 without substantive change.

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

## Article 2. Exceptions Relating to Law Enforcement

### **§ 30150. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

30150. (a) Section 30105 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

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

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

**Comment.** Section 30150 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 30155-30165.

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

### **§ 30155. Exception for loan of firearm to peace officer employee for use in performing official duties**

30155. Section 30105 does not apply to the loan of a firearm if all of the following conditions are satisfied:

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

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

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

**Comment.** Section 30155 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 30150, 30160-30165.

See Section 16520 (“firearm”).

**§ 30160. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

30160. (a) Section 30105 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

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

**Comment.** Section 30160 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 30150-30155, 30165.  
See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 30165. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

30165. (a) Section 30105 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

**Comment.** Section 30165 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 30150-30160.  
See Sections 16520 (“firearm”), 16640 (“handgun”).

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

CHAPTER 1. AMMUNITION

Article 1. Flechette Dart Ammunition or Bullet Containing or  
Carrying an Explosive Agent

**§ 30210. Prohibition on manufacture, import, sale, gift, loan, or possession of flechette dart ammunition or bullet with explosive agent**

30210. Except as provided in Section 30215 and 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 either of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

- (a) Any ammunition that contains or consists of any flechette dart.
- (b) Any bullet containing or carrying an explosive agent.

**Comment.** With respect to “any ammunition that contains or consists of any flechette dart” and “any bullet containing or carrying an explosive agent,” Section 30210 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), 30215 (exemption for tracer ammunition manufactured for use in shotgun).

See Section 16570 (“flechette dart”). See also Sections 16460(b) (bullet with explosive agent is not destructive device), 17800 (distinct and separate offense), 30290 (flechette dart ammunition or bullet with explosive agent constituting nuisance).

**§ 30215. Exemption for tracer ammunition manufactured for use in shotgun**

30215. Section 30210 does not apply to tracer ammunition manufactured for use in a shotgun.

**Comment.** Section 30215 continues former Section 12020(b)(6) without substantive change.

For additional circumstances in which Section 30210 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17190 (“shotgun”).

**§ 30290. Flechette dart ammunition or bullet with explosive agent constituting nuisance**

30290. Except as provided in Section 30215 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any ammunition that contains or consists of any flechette dart, or any bullet containing or carrying an explosive agent, is a nuisance and is subject to Section 18010.

**Comment.** With respect to “any ammunition that contains or consists of any flechette dart” and “any bullet containing or carrying an explosive agent,” Section 30290 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16570 (“flechette dart”).

## Article 2. Other Restrictions Relating to Ammunition

### **§ 30300. Sale of ammunition or reloaded ammunition to minor, or sale of handgun ammunition or reloaded handgun ammunition to person under age 21**

30300. (a) Any person, corporation, or dealer who does either of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine:

(1) Sells any ammunition or reloaded ammunition to a person under 18 years of age.

(2) Sells any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun.

(b) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this section.

**Comment.** Subdivision (a) of Section 30300 continues former Section 12316(a)(1)(A) and the first and third sentences of former Section 12316(a)(1)(B) without substantive change.

Subdivision (b) continues the first sentence of former Section 12316(a)(2) without substantive change.

For limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

For further guidance on firearm restrictions relating to minors and persons under age 21, see Sections 27505 (person, corporation, or firm that sells, loans, or transfers firearm to minor or handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21), 27945 (exception for certain situations involving minor), and 29610-29750 (juvenile).

See Sections 16150 (“ammunition”), 16300 (“bona fide evidence of majority and identity”), 16640 (“handgun”), 16650 (“handgun ammunition”), 17090 (“rifle”).

### **§ 30305. Person prohibited from owning or possessing firearm**

30305. (a) No person prohibited from owning or possessing a firearm under Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, shall own, possess, or have under custody or control, any ammunition or reloaded ammunition.

(b) A violation of this section is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment.

(c) A violation of subdivision (a) is justifiable where all of the following conditions are met:

(1) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against the person who found or took the ammunition or reloaded ammunition.

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

(3) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Chapter 2 (commencing with Section 29800) of Division 9.

(d) Upon the trial for violating subdivision (a), the trier of fact shall determine whether the defendant is subject to the exemption created by subdivision (c). The defendant has the burden of proving by a preponderance of the evidence that the defendant is subject to the exemption provided by subdivision (c).

**Comment.** Subdivision (a) of Section 30305 continues former Section 12316(b)(1) without substantive change.

Subdivision (b) continues former Section 12316(b)(3) without substantive change.

Subdivision (c) continues former Section 12316(d)(1) without substantive change.

Subdivision (d) continues former Section 12316(d)(2)-(3) without substantive change.

For limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Sections 16150 ("ammunition"), 16520 ("firearm").

### **§ 30310. No ammunition or reloaded ammunition on school grounds**

30310. (a) Unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under Section 25450.

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

(1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

(3) Any person summoned by any of these officers to assist in making an arrest or preserving the peace while that person is actually engaged in assisting the officer.

(4) A member of the military forces of this state or of the United States who is engaged in the performance of duties.

(5) A person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5.

(6) An armored vehicle guard, who is engaged in the performance of duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(c) A violation of this section is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

**Comment.** Section 30310 continues former Section 12316(c) without substantive change. An erroneous cross-reference to Business and Professions Code Section 7521(e) has been corrected by replacing it with a cross-reference to Business and Professions Code Section 7582.1(d).

For limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

For other provisions relating to weapons on school grounds, see Sections 626.9 (Gun-Free School Zone Act) and 626.10 (miscellaneous weapons on school grounds).

See Section 16520 (“firearm”).

#### **§ 30315. Knowing possession of handgun ammunition designed to penetrate metal or armor**

30315. Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment.

**Comment.** Section 30315 continues former Section 12320 without substantive change.

For an exception to this provision, see Section 30325 (transporting handgun ammunition designed primarily to penetrate metal or armor to law enforcement agency).

For other limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Section 16660 (“handgun ammunition designed primarily to penetrate metal or armor”).

#### **§ 30320. Manufacturing, importing, selling, offering to sell, or knowingly transporting handgun ammunition designed to penetrate metal or armor**

30320. Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison, or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment.

**Comment.** Section 30320 continues former Section 12321 without substantive change.

For an exception to this provision, see Section 30325 (transporting handgun ammunition designed primarily to penetrate metal or armor to law enforcement agency).

For other limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Section 16660 (“handgun ammunition designed primarily to penetrate metal or armor”).

**§ 30325. Transporting handgun ammunition designed primarily to penetrate metal or armor to law enforcement agency**

30325. Nothing in this article shall apply to or affect the possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition, if that person is not prohibited from possessing firearms or ammunition pursuant to subdivision (a) of Section 30305, Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, and the person is transporting the ammunition to a law enforcement agency for disposition according to law.

**Comment.** Section 30325 continues former Section 12322(b) without substantive change. See Section 16660 (“handgun ammunition designed primarily to penetrate metal or armor”).

**§ 30330. Effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device**

30330. Nothing in this article shall apply to or affect the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2.

**Comment.** Section 30330 continues former Section 12322(a) without substantive change.

**§ 30335. Effect of article on permanently deactivated ammunition**

30335. Nothing in this article shall prohibit the possession, importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

**Comment.** Section 30335 continues former Section 12324 without substantive change.

**§ 30340. Effect of article on ammunition manufactured under contract approved by government agency**

30340. Nothing in this article shall prohibit the manufacture of ammunition under contracts approved by agencies of the state or federal government.

**Comment.** Section 30340 continues former Section 12325 without substantive change.

CHAPTER 2. ASSAULT WEAPONS AND .50 BMG RIFLES

Article 1. General Provisions

**§ 30500. Title**

30500. This chapter shall be known as the Roberti-Roos Assault Weapons Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004.

**Comment.** Section 30500 continues former Section 12275 without substantive change.

**§ 30505. Legislative findings**

30505. (a) The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in Section 30510 based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

(b) The Legislature hereby finds and declares that the proliferation and use of .50 BMG rifles poses a clear and present terrorist threat to the health, safety, and security of all residents of, and visitors to, this state, based upon findings that those firearms have such a high capacity for long distance and highly destructive firepower that they pose an unacceptable risk to the death and serious injury of human beings, destruction or serious damage of vital public and private buildings, civilian, police and military vehicles, power generation and transmission facilities, petrochemical production and storage facilities, and transportation infrastructure. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of these rifles and to establish a registration and permit procedure for their lawful sale and possession.

**Comment.** Section 30505 continues former Section 12275.5 without substantive change.

See Sections 16520 (“firearm”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30510. “Assault weapon”**

30510. As used in this chapter and in Sections 16780, 17000, and 27555, “assault weapon” means the following designated semiautomatic firearms:

(a) All of the following specified rifles:

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

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

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

- (C) Poly Technologies AKS and AK47.
- (D) MAADI AK47 and ARM.
- (2) UZI and Galil.
- (3) Beretta AR-70.
- (4) CETME Sporter.
- (5) Colt AR-15 series.
- (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.
- (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.
- (8) MAS 223.
- (9) HK-91, HK-93, HK-94, and HK-PSG-1.
- (10) The following MAC types:
  - (A) RPB Industries Inc. sM10 and sM11.
  - (B) SWD Incorporated M11.
- (11) SKS with detachable magazine.
- (12) SIG AMT, PE-57, SG 550, and SG 551.
- (13) Springfield Armory BM59 and SAR-48.
- (14) Sterling MK-6.
- (15) Steyer AUG.
- (16) Valmet M62S, M71S, and M78S.
- (17) Armalite AR-180.
- (18) Bushmaster Assault Rifle.
- (19) Calico M-900.
- (20) J&R ENG M-68.
- (21) Weaver Arms Nighthawk.
- (b) All of the following specified pistols:
  - (1) UZI.
  - (2) Encom MP-9 and MP-45.
  - (3) The following MAC types:
    - (A) RPB Industries Inc. sM10 and sM11.
    - (B) SWD Incorporated M-11.
    - (C) Advance Armament Inc. M-11.
    - (D) Military Armament Corp. Ingram M-11.
  - (4) Intratec TEC-9.
  - (5) Sites Spectre.
  - (6) Sterling MK-7.
  - (7) Calico M-950.
  - (8) Bushmaster Pistol.
- (c) All of the following specified shotguns:
  - (1) Franchi SPAS 12 and LAW 12.
  - (2) Striker 12.
  - (3) The Streetsweeper type S/S Inc. SS/12.

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

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

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

**Comment.** Subdivisions (a)-(d) and the introductory clause of Section 30510 continue former Section 12276(a)-(d) and its introductory clause without substantive change. See also former Sections 12001(n)(11), 12072(f)(1)(A), 12282, and 12601(b)(12), which cross-referred to the definition in former Section 12276.

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

Subdivisions (d) and (e) refer to former Section 12276.5, which (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

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

See Section 30515 (further clarification of "assault weapon").

#### **§ 30515. Further clarification of "assault weapon"**

30515. (a) Notwithstanding Section 30510, "assault weapon" also means any of the following:

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

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

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

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

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

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

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

(B) A second handgrip.

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

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

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

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

(A) A folding or telescoping stock.

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

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

(8) Any shotgun with a revolving cylinder.

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

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

(1) Any antique firearm.

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

MANUFACTURER	MODEL	CALIBER
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT

PARDINI	HP	.32 S&W LONG
PARDINI	MP	.32 S&W LONG
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

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

**Comment.** Section 30515 continues former Section 12276.1(a)-(c) without substantive change. See also former Sections 12001(n)(11), 12072(f)(1)(A), 12282, and 12601(b)(12), which cross-referred to the definitional material in former Section 12276.1.

See Sections 16170 (“antique firearm”), 16350 (“capacity to accept more than 10 rounds”), 16890 (“magazine”), 30510 (“assault weapon”).

#### § 30520. Duties of Attorney General

30520. (a) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 30510, and any firearm declared to be an assault weapon pursuant to former Section 12276.5, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

(b)(1) Until January 1, 2007, the Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in former Section 12276 or declared to be assault weapons pursuant to former Section 12276.5. The Attorney General shall file that list with the Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended list with the Secretary of State for publication in the California Code of Regulations. Any firearm declared to be an assault weapon prior to January 1, 2007, shall remain on the list filed with the Secretary of State.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, pertaining to the adoption of rules and

regulations, shall not apply to any list of assault weapons promulgated pursuant to this section.

(c) The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.

**Comment.** Section 30520 continues former Section 12276.5 without substantive change. An incomplete cross-reference to a chapter in the Government Code has been corrected. See also former Sections 12072(f)(1)(A) and 12282, which cross-referred to the definitional material in former Section 12276.5.

As originally enacted, former Section 12276.5 prescribed a procedure by which a court could classify a weapon as an assault weapon. See 1989 Cal. Stat. ch. 19, § 3. The provision was later amended to direct the Attorney General to promulgate a list of the weapons classified as assault weapons by a court or by former Section 12276 (which is continued in Section 30510). Still later, the provision was amended to discontinue both of those procedures as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. This section continues former Section 12276.5 as so amended.

See Sections 16520 (“firearm”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

#### § 30525. “.50 BMG cartridge”

30525. As used in this part, “.50 BMG cartridge” means a cartridge that is designed and intended to be fired from a center fire rifle and that meets all of the following criteria:

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

**Comment.** Section 30525 continues former Section 12278(b) without substantive change.

#### § 30530. “.50 BMG rifle”

30530. (a) As used in this part, “.50 BMG rifle” means a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or a machinegun.

(b) A “.50 BMG rifle” does not include any antique firearm, nor any curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

**Comment.** Subdivision (a) of Section 30530 continues former Section 12278(a) without substantive change.

Subdivision (b) continues former Section 12278(c) without substantive change. See Section 16170 (“antique firearm”). A cross-reference to nonexistent Section 178.11 of Title 27 of the Code of Federal Regulations has been replaced with a cross-reference to Section 478.11 of the Code of Federal Regulations. See Sections 16880 (“machinegun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30525 (“.50 BMG cartridge”).

## Article 2. Unlawful Acts Relating to Assault Weapons and .50 BMG Rifles

### **§ 30600. Unlawful manufacturing, distributing, transporting, importing, selling, giving, or lending of assault weapon or .50 BMG rifle**

30600. (a) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon or any .50 BMG rifle, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(b) In addition and consecutive to the punishment imposed under subdivision (a), any person who transfers, lends, sells, or gives any assault weapon or any .50 BMG rifle to a minor in violation of subdivision (a) shall receive an enhancement of one year.

(c) Except in the case of a first violation involving not more than two firearms as provided in Sections 30605 and 30610, for purposes of this article, if more than one assault weapon or .50 BMG rifle is involved in any violation of this article, there shall be a distinct and separate offense for each.

**Comment.** Section 30600 continues former Section 12280(a) without substantive change.

A conviction under former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290) counts as a prior conviction in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction); see also Section 16010 (continuation of existing law). For further guidance on punishment for a violation of this section, see Section 30615 (sentence enhancement for committing another crime while violating this article).

For exemptions to this provision, see Sections 30625-30675. For guidance in determining when a firearm has become an assault weapon for purposes of this chapter, see Section 30620 (date that firearm becomes assault weapon).

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

### **§ 30605. Unlawful possession of assault weapon**

30605. (a) Any person who, within this state, possesses any assault weapon, except as provided in this chapter, shall be punished by imprisonment in a county jail for a period not exceeding one year, or by imprisonment in the state prison.

(b) Notwithstanding subdivision (a), a first violation of these provisions is punishable by a fine not exceeding five hundred dollars (\$500) if the person was found in possession of no more than two firearms in compliance with Section 30945 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon.

(2) The person has not previously been convicted of a violation of this article.

(3) The person was found to be in possession of the assault weapon within one year following the end of the one-year registration period established pursuant to Section 30900.

(4) The person relinquished the firearm pursuant to Section 31100, in which case the assault weapon shall be destroyed pursuant to Sections 18000 and 18005.

**Comment.** Section 30605 continues former Section 12280(b) without substantive change.

A conviction under former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290) counts as a prior conviction in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction). For further guidance on punishment for a violation of this section, see Section 30615 (sentence enhancement for committing another crime while violating this article).

For exemptions to this provision, see Sections 30625-30675. For guidance in determining when a firearm has become an assault weapon for purposes of this chapter, see Section 30620 (date that firearm becomes assault weapon).

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

#### **§ 30610. Unlawful possession of .50 BMG rifle**

30610. (a) Any person who, within this state, possesses any .50 BMG rifle, except as provided in this chapter, shall be punished by a fine of one thousand dollars (\$1,000), imprisonment in a county jail for a period not to exceed one year, or by both that fine and imprisonment.

(b) Notwithstanding subdivision (a), a first violation of these provisions is punishable by a fine not exceeding five hundred dollars (\$500) if the person was found in possession of no more than two firearms in compliance with Section 30905 and the person satisfies all of the following conditions:

(1) The person proves that he or she lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(2) The person has not previously been convicted of a violation of this article.

(3) The person was found to be in possession of the .50 BMG rifle within one year following the end of the .50 BMG rifle registration period established pursuant to Section 30905.

(c) Firearms seized pursuant to this section from persons who meet all of the conditions in paragraphs (1), (2), and (3) of subdivision (b) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the .50 BMG rifle should be destroyed pursuant to Sections 18000 and 18005. Firearms seized from persons who do not meet the conditions set forth in paragraphs (1), (2), and (3) of subdivision (b) shall be destroyed pursuant to Sections 18000 and 18005.

**Comment.** Section 30610 continues former Section 12280(c) without substantive change.

A conviction under former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290) counts as a prior conviction in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction). For further guidance on punishment for a violation of this section, see Section 30615 (sentence enhancement for committing another crime while violating this article).

For exemptions to this provision, see Sections 30625-30675.

See Sections 16520 (“firearm”), 16970 (“person”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

**§ 30615. Sentence enhancement for committing another crime while violating this article**

30615. Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this article may receive an additional, consecutive punishment of one year for violating this article, in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

**Comment.** Section 30615 continues former Section 12280(d) without substantive change. See Section 16970 (“person”).

**§ 30620. Date that firearm becomes assault weapon**

30620. As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(a) The effective date of an amendment to Section 30510 or to former Section 12276 that adds the designation of the specified firearm.

(b) The effective date of the list promulgated pursuant to former Section 12276.5 that adds or changes the designation of the specified firearm.

(c) January 1, 2000, which was the operative date of former Section 12276.1.

**Comment.** Section 30620 continues former Section 12280(u) without substantive change.

Subdivision (a) refers to former Section 12276. That section is continued in Section 30510 (“assault weapon”), which is also referred to in subdivision (a).

Subdivision (b) refers to the list promulgated pursuant to former Section 12276.5. In the past, that section (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by Section 12276 or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

Subdivision (c) refers to the operative date of former Section 12276.1 (i.e., January 1, 2000). As subsequently amended to exempt certain weapons, that section is continued in Section 30515 (further clarification of “assault weapon”).

See Sections 16520 (“firearm”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30625. Exemption for police departments and certain other government entities**

30625. Sections 30600, 30605, and 30610 shall not apply to the sale to, purchase by, importation of, or possession of assault weapons or a .50 BMG rifle by the Department of Justice, police departments, sheriffs’ offices, marshals’ offices, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, district attorneys’ offices, the Department of Fish and Game, the Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.

**Comment.** Section 30625 continues former Section 12280(e) without substantive change.

See Sections 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30630. Exemptions for peace officers and members of federal law enforcement agencies**

30630. (a) Sections 30605 and 30610 shall not prohibit the possession or use of assault weapons or a .50 BMG rifle by sworn peace officer members of those agencies specified in Section 30625 for law enforcement purposes, whether on or off duty.

(b)(1) Sections 30600, 30605, and 30610 shall not prohibit the sale, delivery, or transfer of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a sworn peace officer member of an agency specified in Section 30625 if the peace officer is authorized by the officer's employer to possess or receive the assault weapon or the .50 BMG rifle. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing that person to receive or possess the specific assault weapon.

(2) For this exemption to apply, in the case of a peace officer who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to former Section 12285 on or before April 1, 2002. In the case of a peace officer who possesses or receives the assault weapon on or after January 1, 2002, the officer shall register the assault weapon pursuant to former Section 12285 or pursuant to Article 5 (commencing with Section 30900), not later than 90 days after possession or receipt. In the case of a peace officer who possesses or receives a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50 BMG rifle on or before April 30, 2006. In the case of a peace officer who possesses or receives a .50 BMG rifle after January 1, 2005, the officer shall register the .50 BMG rifle not later than one year after possession or receipt.

(3) With the registration, the peace officer shall include a copy of the authorization required pursuant to this subdivision.

(c) Nothing in this article shall be construed to limit or prohibit the sale, delivery, or transfer of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a member of a federal law enforcement agency provided that person is authorized by the employing agency to possess the assault weapon or .50 BMG rifle.

**Comment.** Subdivision (a) of Section 30630 continues former Section 12280(f)(1) without substantive change.

Subdivision (b) continues former Section 12280(f)(2) without substantive change. Subdivision (b) refers to former Section 12285. That provision is continued in Article 5 (Sections 30900-30965).

Subdivision (c) continues former Section 12280(f)(3) without substantive change.

See Sections 16970 ("person"), 30510 ("assault weapon"), 30515 (further clarification of "assault weapon"), 30530 (".50 BMG rifle"). See also Section 16010 (continuation of existing law).

**§ 30635. Exemption applicable during period soon after weapon was classified as assault weapon**

30635. Section 30605 shall not apply to the possession of an assault weapon during the 90-day period immediately after the date it was specified as an assault weapon pursuant to former Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to former Section 12276.1, if all of the following are applicable:

(a) At the time of the possession in question, the person was eligible under former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4 to register the particular assault weapon.

(b) The person lawfully possessed the particular assault weapon prior to the date it was specified as an assault weapon pursuant to former Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to former Section 12276.1.

(c) At the time of the possession in question, the person was otherwise in compliance with former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4.

**Comment.** Section 30635 continues former Section 12280(g) without substantive change.

The introductory clause and subdivision (b) refer to the date that a weapon “was specified as an assault weapon pursuant to *former Section 12276.5*.” (Emphasis added.) In the past, that section (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

The introductory clause and subdivision (b) also refer to the date that a weapon “was defined as an assault weapon pursuant to *former Section 12276.1*.” (Emphasis added.) That section became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”).

Subdivisions (a) and (c) refer to former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290). That former chapter is continued in this chapter (Sections 30500-31115).

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

**§ 30640. Exemption for possession of .50 BMG rifle, not classified as assault weapon, before May 1, 2006**

30640. Section 30610 shall not apply to the possession of a .50 BMG rifle, which was not defined or specified as an assault weapon pursuant to former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4, by any person prior to May 1, 2006, if all of the following are applicable:

(a) At the time of the possession in question, the person was eligible under former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4 to register that .50 BMG rifle.

(b) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(c) At the time of the possession in question, the person was otherwise in compliance with former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4.

**Comment.** Section 30640 continues former Section 12280(s) without substantive change.

The introductory clause and subdivisions (a) and (c) refer to former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290). That former chapter is continued in this chapter (Sections 30500-31115).

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

**§ 30645. Exemption for manufacture by person with permit, for sale to certain recipients**

30645. Sections 30600, 30605, and 30610 shall not apply to the manufacture by any person who is issued a permit pursuant to Section 31005 of assault weapons or .50 BMG rifles for sale to the following:

- (a) Exempt entities listed in Section 30625.
- (b) Entities and persons who have been issued permits pursuant to Section 31000 or 31005.
- (c) Federal military and law enforcement agencies.
- (d) Law enforcement and military agencies of other states.
- (e) Foreign governments and agencies approved by the United States State Department.
- (f) Entities outside the state who have, in effect, a federal firearms dealer’s license solely for the purpose of distribution to an entity listed in subdivisions (c) to (e), inclusive.

**Comment.** Section 30645 continues former Section 12280(h) without substantive change.

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30650. Exemption for sale by person with permit, for sale to certain recipients**

30650. Sections 30600, 30605, and 30610 shall not apply to the sale of assault weapons or .50 BMG rifles by persons who are issued permits pursuant to Section 31005 to any of the following:

- (a) Exempt entities listed in Section 30625.
- (b) Entities and persons who have been issued permits pursuant to Section 31000 or 31005.
- (c) Federal military and law enforcement agencies.
- (d) Law enforcement and military agencies of other states.
- (e) Foreign governments and agencies approved by the United States State Department.
- (f) Officers described in Section 30630 who are authorized to possess assault weapons or .50 BMG rifles pursuant to Section 30630.

**Comment.** Section 30650 continues former Section 12280(t) without substantive change.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30655. Exemptions for executor or administrator of estate**

30655. (a) Section 30600 shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Article 5 (commencing with Section 30900) or that was possessed pursuant to subdivision (a) of Section 30630 that is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(b) Sections 30605 and 30610 shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Article 5 (commencing with Section 30900) or that was possessed pursuant to subdivision (a) of Section 30630, if the assault weapon or .50 BMG rifle is possessed at a place set forth in subdivision (a) of Section 30945 or as authorized by the probate court.

**Comment.** Subdivision (a) of Section 30655 continues former Section 12280(i) without substantive change.

Subdivision (b) continues former Section 12280(j) without substantive change.

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

**§ 30660. Exemption for loan and return under specified circumstances**

30660. (a) Section 30600 shall not apply to a person who lawfully possesses and has registered an assault weapon or .50 BMG rifle pursuant to this chapter who lends that assault weapon or .50 BMG rifle to another person, if all the following requirements are satisfied:

(1) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years of age or over and is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) The person to whom the assault weapon or .50 BMG rifle is lent remains in the presence of the registered possessor of the assault weapon or .50 BMG rifle.

(3) The assault weapon or .50 BMG rifle is possessed at any of the following locations:

(A) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(B) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(C) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(b) Section 30600 shall not apply to the return of an assault weapon or .50 BMG rifle to the registered possessor, or the lawful possessor, which is lent by that registered or lawful possessor pursuant to subdivision (a).

(c) Sections 30605 and 30610 shall not apply to the possession of an assault weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG rifle is lent pursuant to subdivision (a).

**Comment.** Subdivisions (a) and (b) of Section 30660 continue former Section 12280(k) without substantive change.

Subdivision (c) continues former Section 12280(l) without substantive change.

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30665. Exemption for possession and importation by nonresident attending match or competition**

30665. Sections 30600, 30605, and 30610 shall not apply to the possession and importation of an assault weapon or a .50 BMG rifle into this state by a nonresident if all of the following conditions are met:

(a) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon or a .50 BMG rifle.

(b) The competition or match is conducted on the premises of one of the following:

(1) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(2) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(c) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(d) The assault weapon or .50 BMG rifle is transported in accordance with Section 25610 or Article 3 (commencing with Section 25505) of Chapter 2 of Division 5.

(e) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

**Comment.** Section 30665 continues former Section 12280(m) without substantive change.

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30670. Other exemptions relating to importation**

30670. (a) Section 30600 shall not apply to the importation into this state of an assault weapon or a .50 BMG rifle by the registered owner of that assault weapon or a .50 BMG rifle if it is in accordance with the provisions of Section 30945.

(b) Section 30600 shall not apply during the first 180 days of the 2005 calendar year to the importation into this state of a .50 BMG rifle by a person who lawfully possessed that .50 BMG rifle in this state prior to January 1, 2005.

**Comment.** Subdivision (a) of Section 30670 continues former Section 12280(q) without substantive change.

Subdivision (b) continues former Section 12280(r) without substantive change.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

**§ 30675. Exemptions for persons acting in accordance with specified statutory provisions**

30675. (a) Sections 30605 and 30610 shall not apply to any of the following persons:

(1) A person acting in accordance with Section 31000 or 31005.

(2) A person who has a permit to possess an assault weapon or a .50 BMG rifle issued pursuant to Section 31000 or 31005 when that person is acting in accordance with Section 31000 or 31005 or Article 5 (commencing with Section 30900).

(b) Sections 30600, 30605, and 30610 shall not apply to any of the following persons:

(1) A person acting in accordance with Article 5 (commencing with Section 30900).

(2) A person acting in accordance with Section 31000, 31005, 31050, or 31055.

(c) Sections 30605 and 30610 shall not apply to the registered owner of an assault weapon or a .50 BMG rifle possessing that firearm in accordance with Section 30945.

**Comment.** Subdivision (a) of Section 30675 continues former Section 12280(n) without substantive change.

Subdivision (b) continues former Section 12280(o) without substantive change.

Subdivision (c) continues former Section 12280(p) without substantive change.

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

### Article 3. SKS Rifles

**§ 30710. “SKS rifle”**

30710. Notwithstanding paragraph (11) of subdivision (a) of Section 30510, an “SKS rifle” under this article means all SKS rifles commonly referred to as “SKS Sporter” versions, manufactured to accept a detachable AK-47 magazine and imported into this state and sold by a licensed gun dealer, or otherwise lawfully possessed in this state by a resident of this state who is not a licensed gun dealer, between January 1, 1992, and December 19, 1997.

**Comment.** Section 30710 continues former Section 12281(i) without substantive change.

See Section 16010 (continuation of existing law).

**§ 30715. Immunity and other relief relating to SKS rifles**

30715. (a)(1) Any person who, or firm, company, or corporation that, operated a retail or other commercial firm, company, or corporation, and manufactured, distributed, transported, imported, possessed, possessed for sale, offered for sale,

or transferred, for commercial purpose, an SKS rifle in California between January 1, 1992, and December 19, 1997, shall be immune from criminal prosecution under Article 2 (commencing with Section 30600) or former Section 12280.

(2) The immunity provided in this subdivision shall apply retroactively to any person who, or firm, company, or corporation that, is or was charged by complaint or indictment with a violation of former Section 12280 for conduct related to an SKS rifle, whether or not the case of that person, firm, company, or corporation is final.

(b)(1) Any person who possessed, gave, loaned, or transferred an SKS rifle in California between January 1, 1992, and December 19, 1997, shall be immune from criminal prosecution under Article 2 (commencing with Section 30600) or former Section 12280.

(2) The immunity provided in this subdivision shall apply retroactively to any person who was charged by complaint or indictment with a violation of former Section 12280 for conduct related to an SKS rifle, whether or not the case of that person is final.

(c) Any SKS rifle in the possession of any person who, or firm, company, or corporation that, is described in subdivision (a) or (b), shall not be subject to seizure by law enforcement for violation of Article 2 (commencing with Section 30600) or former Section 12280 prior to January 1, 2000.

(d) Any person, firm, company, or corporation, convicted under former Section 12280 for conduct relating to an SKS rifle, shall be permitted to withdraw a plea of guilty or nolo contendere, or to reopen the case and assert the immunities provided in this article, if the court determines that the allowance of the immunity is in the interests of justice. The court shall interpret this article liberally to the benefit of the defendant.

**Comment.** Section 30715 continues former Section 12281(a)-(d) without substantive change.

In a number of places, Section 30715 refers to former Section 12280. That provision is continued in Article 2 (Sections 30600-30675).

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

#### **§ 30720. Relinquishment or other disposal of SKS rifle**

30720. (a) Any person, firm, company, or corporation that is in possession of an SKS rifle shall do one of the following on or before January 1, 2000:

(1) Relinquish the SKS rifle to the Department of Justice pursuant to subdivision (h) of former Section 12281.

(2) Relinquish the SKS rifle to a law enforcement agency pursuant to former Section 12288.

(3) Dispose of the SKS rifle as permitted by former Section 12285.

(b) Any person who has obtained title to an SKS rifle by bequest or intestate succession shall be required to comply with paragraph (1) or (2) of subdivision (a) unless that person otherwise complies with paragraph (1) of subdivision (b) of former Section 12285.

(c) Any SKS rifle relinquished to the department pursuant to this section shall be in a manner prescribed by the department.

**Comment.** Section 30720 continues former Section 12281(f)(1)-(3) without substantive change.

For the consequences of complying or failing to comply with this provision, see Section 30725.

Subdivision (a)(1) refers to former Section 12281(h), which is continued in Section 30730(a). Subdivision (a)(2) refers to former Section 12288, which is continued in Section 31100 (relinquishment of assault weapon or .50 BMG rifle). Subdivision (a)(3) refers to former Section 12285, which is continued in Article 5 (Sections 30900-30965).

Subdivision (b) refers to former Section 12285(b)(1). That provision is continued in Sections 30910 (restriction on sale or transfer of assault weapon), 30915 (assault weapon obtained by bequest or intestate succession), and 30920 (firearm lawfully possessed before it was classified as “assault weapon”).

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

#### **§ 30725. Consequences of compliance or noncompliance with Section 30720**

30725. (a) Any person who complies with Section 30720 shall be exempt from the prohibitions set forth in Section 30600 or 30605 for those acts by that person associated with complying with the requirements of Section 30720.

(b) Failure to comply with Section 30720 is a public offense punishable by imprisonment in the state prison, or in a county jail, not exceeding one year.

**Comment.** Subdivision (a) of Section 30725 continues former Section 12281(g) without substantive change.

Subdivision (b) continues former Section 12281(j) without substantive change.

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

#### **§ 30730. Purchase program for relinquished SKS rifles**

30730. (a)(1) The department shall purchase any SKS rifle relinquished pursuant to Section 30720 from funds appropriated for this purpose by the act amending former Section 12281 in the 1997-98 Regular Session of the Legislature or by subsequent budget acts or other legislation.

(2) The department shall adopt regulations for this purchase program that include, but are not limited to, the manner of delivery, the reimbursement to be paid, and the manner in which persons shall be informed of the state purchase program.

(3) Any person who relinquished possession of an SKS rifle to a law enforcement agency pursuant to former Section 12288 prior to the effective date of the purchase program set forth in paragraph (1) shall be eligible to be reimbursed from the purchase program. The procedures for reimbursement pursuant to this paragraph shall be part of the regulations adopted by the department pursuant to paragraph (2).

(b) In addition to the regulations required pursuant to subdivision (a), emergency regulations for the purchase program described in subdivision (a) shall be adopted

pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**Comment.** Subdivision (a) of Section 30730 continues former Section 12281(h) without substantive change. Subdivision (a)(3) refers to former Section 12288. That provision is continued in Section 31100 (relinquishment of assault weapon or .50 BMG rifle).

Subdivision (b) continues former Section 12281(k) without substantive change.

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

#### **§ 30735. Duties of Department of Justice**

30735. (a) The Department of Justice shall notify all district attorneys on or before January 31, 1999, of the provisions of former Section 12281.

(b) The department shall identify all criminal prosecutions in the state for conduct related to SKS rifles on or before April 1, 1999. In all cases so identified by the Attorney General, the district attorneys shall inform defense counsel, or the defendant if the defendant is in propria persona, in writing, of the provisions of former Section 12281 on or before May 1, 1999.

(c) The department shall conduct a public education and notification program as described in former Section 12289, commencing no later than January 1, 1999.

**Comment.** Subdivisions (a) and (b) of Section 30735 continue former Section 12281(e) without substantive change. Both subdivisions refer to former Section 12281, which is continued in this article (Sections 30710-30735).

Subdivision (c) continues former Section 12281(f)(4) without substantive change. Subdivision (c) refers to former Section 12289, which is continued in Section 31115.

See Section 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

### Article 4. Assault Weapon or .50 BMG Rifle Constituting Nuisance

#### **§ 30800. Assault weapon or .50 BMG rifle constituting nuisance**

30800. (a)(1) Except as provided in Article 2 (commencing with Section 30600), possession of any assault weapon or of any .50 BMG rifle in violation of this chapter is a public nuisance, solely for purposes of this section and subdivision (c) of Section 18005.

(2) The Attorney General, any district attorney, or any city attorney, may, in lieu of criminal prosecution, bring a civil action or reach a civil compromise in any superior court to enjoin the possession of the assault weapon or .50 BMG rifle that is a public nuisance.

(b) Upon motion of the Attorney General, district attorney, or city attorney, a superior court may impose a civil fine not to exceed three hundred dollars (\$300) for the first assault weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a) and up to one hundred dollars (\$100) for each additional assault weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a).

(c) Any assault weapon or .50 BMG rifle deemed a public nuisance under subdivision (a) shall be destroyed in a manner so that it may no longer be used, except upon a finding by a court, or a declaration from the Department of Justice,

district attorney, or city attorney stating that the preservation of the assault weapon or .50 BMG rifle is in the interest of justice.

(d) Upon conviction of any misdemeanor or felony involving the illegal possession or use of an assault weapon, the assault weapon shall be deemed a public nuisance and disposed of pursuant to subdivision (c) of Section 18005.

**Comment.** Section 30800 continues former Section 12282 without substantive change.

See Sections 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

## Article 5. Registration of Assault Weapons and .50 BMG Rifles and Related Rules

### § 30900. Registration of assault weapon

30900. (a) Any person who lawfully possessed an assault weapon, as defined in former Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to former Section 12276.5 shall register the firearm within 90 days with the Department of Justice pursuant to those procedures that the department may establish.

(b) Except as provided in Section 30600, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to former Section 12276.1, and which was not specified as an assault weapon under former Section 12276 or 12276.5, shall register the firearm by January 1, 2001, with the department pursuant to those procedures that the department may establish.

(c) The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate.

(d) The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department’s budget or as otherwise increased through the Budget Act. The fees shall be deposited into the Dealers’ Record of Sale Special Account.

**Comment.** Section 30900 continues former Section 12285(a)(1) without substantive change.

Under subdivision (a), a person “who lawfully possesses an assault weapon, *as defined in former Section 12276*, prior to June 1, 1989, shall register the firearm by January 1, 1991 ....” (Emphasis added.) For the text of former Section 12276 during this registration period, see 1989 Cal. Stat. ch. 19, § 3. The provision was subsequently amended on several occasions. See 1993 Cal. Stat. ch. 606, § 19; 1992 Cal. Stat. ch. 427, § 134; 1991 Cal. Stat. ch. 954, § 2. As so amended, former Section 12276 is continued in Section 30510 (“assault weapon”).

Subdivision (a) also refers to the date that a weapon “was specified as an assault weapon pursuant to former Section 12276.5.” (Emphasis added.) In the past, that section (1) prescribed a

procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

Under subdivision (b), a person “who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to former Section 12276.1, and which was not specified as an assault weapon under former Section 12276 or 12276.5, shall register the firearm by January 1, 2001 ....” (Emphasis added.) Former Section 12276.1 became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”).

See Sections 16520 (“firearm”), 16970 (“person”). See also Section 16010 (continuation of existing law).

#### **§ 30905. Registration of .50 BMG rifle**

30905. (a) Except as provided in Section 30600, any person who lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an assault weapon under former Section 12276 or 12276.5 or defined as an assault weapon pursuant to former Section 12276.1, shall register the .50 BMG rifle with the department no later than April 30, 2006, pursuant to those procedures that the department may establish.

(b) The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate.

(c) The department may charge a fee for registration of twenty-five dollars (\$25) per person to cover the actual processing and public education campaign costs of the department. The fees shall be deposited into the Dealers’ Record of Sale Special Account. Data-processing costs associated with modifying the department’s data system to accommodate .50 caliber BMG rifles shall not be paid from the Dealers’ Record of Sale Special Account.

**Comment.** Section 30905 continues former Section 12285(a)(2) without substantive change.

Under subdivision (a), a person “who lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an assault weapon under former Section 12276 or 12276.5 or defined as an assault weapon pursuant to former Section 12276.1, shall register the .50 BMG rifle with the department no later than April 30, 2006 ....” (Emphasis added.) For the text of former Section 12276 during this registration period, see 1993 Cal. Stat. ch. 606, § 19, which is continued in Section 30510 (“assault weapon”). For the text of former Section 12276.1 during this registration period, see 2002 Cal. Stat. ch. 911, § 3, which is continued in Section 30515 (further clarification of “assault weapon”). For the text of former Section 12276.5 during this registration period, see 1991 Cal. Stat. ch. 954, § 3. Former Section 12276.5 was subsequently amended. As so amended, it is continued in Section 30520 (duties of Attorney General).

See Sections 16520 (“firearm”), 16970 (“person”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

#### **§ 30910. Restriction on sale or transfer of assault weapon**

30910. Except as provided in Section 30925, no assault weapon possessed pursuant to this article may be sold or transferred on or after January 1, 1990, to

anyone within this state other than to a licensed gun dealer or as provided in Section 31100.

**Comment.** Section 30910 continues the first sentence of former Section 12285(b)(1) without substantive change.

See Section 16790 (“licensed gun dealer”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

**§ 30915. Assault weapon obtained by bequest or intestate succession**

30915. Any person who obtains title to an assault weapon registered under this article or that was possessed pursuant to subdivision (a) of Section 30630 by bequest or intestate succession shall, within 90 days, do one or more of the following:

- (a) Render the weapon permanently inoperable.
- (b) Sell the weapon to a licensed gun dealer.
- (c) Obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.
- (d) Remove the weapon from this state.

**Comment.** In combination with Section 30920(a), Section 30915 continues the second sentence of former Section 12285(b)(1) without substantive change.

See Sections 16520 (“firearm”), 16790 (“licensed gun dealer”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

**§ 30920. Firearm lawfully possessed before it was classified as “assault weapon”**

30920. (a) Any person who lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to former Section 12276.5, or subsequently defined as an assault weapon pursuant to former Section 12276.1, shall, within 90 days, do one or more of the following:

- (1) Render the weapon permanently inoperable.
- (2) Sell the weapon to a licensed gun dealer.
- (3) Obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.
- (4) Remove the weapon from this state.

(b) Notwithstanding subdivision (a), a person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to former Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of former Section 12276.5.

**Comment.** In combination with Section 30915, subdivision (a) of Section 30920 continues the second sentence of former Section 12285(b)(1) without substantive change. Subdivision (b) continues the third sentence of former Section 12285(b)(1) without substantive change.

Subdivision (a) refers to former Section 12276.1. That section became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”).

Subdivisions (a) and (b) refer to former Section 12276.5, which (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court.

See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

See Sections 16520 (“firearm”), 16790 (“licensed gun dealer”), 16970 (“person”). See also Section 16010 (continuation of existing law).

**§ 30925. Person who moves into state with assault weapon**

30925. A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(a) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(b) The person shall cause the assault weapon to be delivered to a licensed gun dealer in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6, the dealer shall redeliver that assault weapon to the person. If the licensed gun dealer is prohibited from delivering the assault weapon to a person pursuant to this section, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

**Comment.** Section 30925 continues former Section 12285(b)(2) without substantive change.

See Sections 16790 (“licensed gun dealer”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

**§ 30930. Restriction on sale or transfer of .50 BMG rifle**

30930. Except as provided in Section 30940, no .50 BMG rifle possessed pursuant to this article may be sold or transferred on or after January 1, 2005, to anyone within this state other than to a licensed gun dealer or as provided in Section 31100.

**Comment.** Section 30930 continues the first sentence of former Section 12285(b)(3) without substantive change.

See Sections 16790 (“licensed gun dealer”), 30530 (“.50 BMG rifle”).

**§ 30935. .50 BMG rifle obtained by bequest or intestate succession**

30935. Any person who obtains title to a .50 BMG rifle registered under this article or that was possessed pursuant to subdivision (a) of Section 30630 by bequest or intestate succession shall, within 180 days of receipt, do one or more of the following:

(a) Render the weapon permanently inoperable.

(b) Sell the weapon to a licensed gun dealer.

(c) Obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(d) Remove the weapon from this state.

**Comment.** Section 30935 continues the second sentence of former Section 12285(b)(3) without substantive change.

See Sections 16790 (“licensed gun dealer”), 16970 (“person”), 30530 (“.50 BMG rifle”).

**§ 30940. Person who moves into state with .50 BMG rifle**

30940. A person moving into this state, otherwise in lawful possession of a .50 BMG rifle, shall do one of the following:

(a) Prior to bringing the .50 BMG rifle into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(b) The person shall cause the .50 BMG rifle to be delivered to a licensed gun dealer in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6, the dealer shall redeliver that .50 BMG rifle to the person. If the licensed gun dealer is prohibited from delivering the .50 caliber BMG rifle to a person pursuant to this section, the dealer shall dispose of the .50 BMG rifle as allowed by this chapter.

**Comment.** Section 30940 continues former Section 12285(b)(4) without substantive change.

See Sections 16790 (“licensed gun dealer”), 16970 (“person”), 30530 (“.50 BMG rifle”).

**§ 30945. Permitted uses of registered assault weapon or registered .50 BMG rifle**

30945. Unless a permit allowing additional uses is first obtained under Section 31000, a person who has registered an assault weapon or registered a .50 BMG rifle under this article may possess it only under any of the following conditions:

(a) At that person’s residence, place of business, or other property owned by that person, or on property owned by another with the owner’s express permission.

(b) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(c) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(d) While on the premises of a shooting club that is licensed pursuant to the Fish and Game Code.

(e) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(f) While on publicly owned land, if the possession and use of a firearm described in Section 30510, 30515, 30520, or 30530, is specifically permitted by the managing agency of the land.

(g) While transporting the assault weapon or .50 BMG rifle between any of the places mentioned in this section, or to any licensed gun dealer, for servicing or repair pursuant to Section 31050, if the assault weapon is transported as required by Sections 16850 and 25610.

**Comment.** Section 30945 continues former Section 12285(c) without substantive change. See Sections 16520 (“firearm”), 16790 (“licensed gun dealer”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30950. No registration or possession of assault weapon or .50 BMG rifle by minor or person in prohibited class**

30950. No person who is under the age of 18 years, and no person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, may register or possess an assault weapon or .50 BMG rifle.

**Comment.** Section 30950 continues former Section 12285(d) without substantive change. See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30955. Joint registration**

30955. The department’s registration procedures shall provide the option of joint registration for any assault weapon or .50 BMG rifle owned by family members residing in the same household.

**Comment.** Section 30955 continues former Section 12285(e) without substantive change. See Sections 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 30960. Forgiveness period**

30960. (a) For 90 days following January 1, 1992, a forgiveness period shall exist to allow any person specified in subdivision (b) of former Section 12280 to register with the Department of Justice any assault weapon that the person lawfully possessed prior to June 1, 1989.

(b)(1) Any person who registers an assault weapon during the 90-day forgiveness period described in subdivision (a), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of former Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon.

(2) This section shall have no effect upon any person charged with a violation of subdivision (b) of former Section 12280 of the Penal Code prior to January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

**Comment.** Subdivision (a) of Section 30960 continues former Section 12285(f) without substantive change.

Subdivision (b) continues former Section 12285(h) without substantive change.

Subdivisions (a) and (b) refer to former Section 12280(b). That provision is continued in Section 30605 (unlawful possession of assault weapons).

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

**§ 30965. Exception to registration requirement for weapon already registered on another basis**

30965. (a) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 30515 or former Section 12276.1, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this article.

(b) Any person who legally registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2005, where the assault weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 30530 or former Section 12278, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this article.

**Comment.** Section 30965 continues former Section 12285(g) without substantive change.

Subdivision (a) refers to former Section 12276.1, which became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”), which is also referred to in subdivision (a).

Subdivision (b) refers to a weapon “defined as a .50 BMG caliber rifle pursuant to ... former Section 12278.” The definition of “.50 BMG rifle” in former Section 12278 is continued in Section 30530 (“.50 BMG rifle”), which is also referred to in subdivision (b).

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

## Article 6. Permits for Assault Weapons and .50 BMG Rifles

**§ 31000. Permit for use of assault weapon or .50 BMG rifle in manner not specified in Section 30945**

31000. (a) Any person who lawfully acquired an assault weapon before June 1, 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner different than specified in Section 30945 shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(b) Any person who lawfully acquired an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep it after January 1, 1990, shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(c) Any person who wishes to acquire an assault weapon after January 1, 1990, or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

**Comment.** Section 31000 continues former Section 12286 without substantive change.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 31005. Issuance of permits by Department of Justice**

31005. (a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture or sale of assault weapons or .50 BMG rifles for the sale to, purchase by, or possession of assault weapons or .50 BMG rifles by, any of the following:

(1) The agencies listed in Section 30625, and the officers described in Section 30630.

(2) Entities and persons who have been issued permits pursuant to this section or Section 31000.

(3) Federal law enforcement and military agencies.

(4) Law enforcement and military agencies of other states.

(5) Foreign governments and agencies approved by the United States State Department.

(6) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (3) to (5), inclusive.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

**Comment.** Section 31005 continues former Section 12287 without substantive change.

See Sections 16970 ("person"), 30510 ("assault weapon"), 30515 (further clarification of "assault weapon"), 30530 (".50 BMG rifle").

Article 7. Licensed Gun Dealers

**§ 31050. Licensed gun dealer facilitating service or repair of assault weapon or .50 BMG rifle**

31050. (a) Any licensed gun dealer may take possession of any assault weapon or .50 BMG rifle for the purposes of servicing or repair from any person to whom it is legally registered or who has been issued a permit to possess it pursuant to this chapter.

(b) Any licensed gun dealer may transfer possession of any assault weapon or .50 BMG rifle received pursuant to subdivision (a), to a gunsmith for purposes of accomplishing service or repair of that weapon. A transfer is permissible only to the following persons:

(1) A gunsmith who is in the dealer's employ.

(2) A gunsmith with whom the dealer has contracted for gunsmithing services.

(c) In order for paragraph (2) of subdivision (b) to apply, the gunsmith receiving the assault weapon or .50 BMG rifle shall hold all of the following:

(1) A dealer's license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) Any business license required by a state or local governmental entity.

**Comment.** Section 31050 continues former Section 12290(b) without substantive change.

See Sections 16630 (“gunsmith”), 16790 (“licensed gun dealer”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 31055. Other special rules for licensed gun dealer**

31055. In addition to the uses allowed in Article 5 (commencing with Section 30900), any licensed gun dealer who lawfully possesses an assault weapon or .50 BMG rifle pursuant to Article 5 (commencing with Section 30900) may do any of the following:

(a) Transport the firearm between dealers or out of the state if that person is permitted pursuant to the National Firearms Act. Any transporting allowed by this section or Section 31050 shall be done as required by Sections 16850 and 25610.

(b) Display the firearm at any gun show licensed by a state or local governmental entity.

(c) Sell the firearm to a resident outside the state.

(d) Sell the firearm to a person who has been issued a permit pursuant to Section 31000.

**Comment.** Section 31055 continues former Section 12290(a) without substantive change.

See Sections 16790 (“licensed gun dealer”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

## Article 8. Miscellaneous Provisions

**§ 31100. Relinquishment of assault weapon or .50 BMG rifle**

31100. Any individual may arrange in advance to relinquish an assault weapon or a .50 BMG rifle to a police or sheriff’s department. The assault weapon or .50 BMG rifle shall be transported in accordance with Sections 16850 and 25610.

**Comment.** Section 31100 continues former Section 12288 without substantive change.

See Sections 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

**§ 31105. Broadcasting over police radio**

31105. (a) No peace officer or dispatcher shall broadcast over a police radio that an individual has registered, or has obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this chapter, unless there exists a reason to believe in good faith that one of the following conditions exist:

(1) The individual has engaged, or may be engaged, in criminal conduct.

(2) The police are responding to a call in which the person allegedly committing a criminal violation may gain access to the assault weapon or .50 BMG rifle.

(3) The victim, witness, or person who reported the alleged criminal violation may be using the assault weapon or .50 BMG rifle to hold the person allegedly committing the criminal violation, or may be using the weapon in defense of self or another person.

(b) This section shall not prohibit a peace officer or dispatcher from broadcasting over a police radio that an individual has not registered, or has not

obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this chapter.

(c) This section does not limit the transmission of an assault weapon or a .50 BMG rifle ownership status via law enforcement computers or any other medium that is legally accessible only to peace officers or other authorized personnel.

**Comment.** Section 31105 continues former Section 12288.5 without substantive change.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

#### **§ 31110. Inspection conducted by Department of Justice**

31110. (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of assault weapons.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

**Comment.** Section 31110 continues former Section 12289.5 without substantive change.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

#### **§ 31115. Public education and notification program**

31115. (a) The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons and the definition of the weapons set forth in Section 30515 and former Section 12276.1.

(b) The public education and notification program shall include outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of former Section 12285 and the consequences of nonregistration. The department shall develop posters describing gunowners’ responsibilities under former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4, which shall be posted in a conspicuous place in every licensed gun store in the state during the forgiveness period.

(c) For .50 BMG rifles, the department’s education campaign shall provide materials to dealers of .50 BMG rifles, and to recognized national associations that specialize in .50 BMG rifles.

(d) Any costs incurred by the Department of Justice to implement this section, which cannot be absorbed by the department, shall be funded from the Dealers’ Record of Sale Special Account, as set forth in Section 28220 or subdivision (d) of former Section 12076, upon appropriation by the Legislature.

**Comment.** Section 31115 continues former Section 12289 without substantive change.

Subdivision (a) refers to former Section 12276.1, which became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”).

Subdivision (b) refers to former Section 12285(f). That provision is continued in Section 30960(a). Subdivision (b) also refers to “former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4.” Former Chapter 2.3 (former Sections 12275-12290) is continued in this chapter (except some definitions that are located in “Division 2. Definitions” of Title 1).

Subdivision (d) refers to former Section 12076(d). That provision is continued in Section 28220.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

### CHAPTER 3. BODY ARMOR

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

31310. 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 31310 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.

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

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

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

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

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

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

#### **§ 31325. Content of application**

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

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

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

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

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

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

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

**§ 31330. Schedule for ballistic testing**

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

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

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

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

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

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

(c) That the application is materially incomplete.

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

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

**§ 31340. Revocation of certification**

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

(a) The experience or additional testing show that the body armor does not comply with the department's ballistic performance standards.

(b) The application contains any misrepresentation of a material fact.

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

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

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

31345. (a) All purchases of certified body armor under the provisions of this chapter shall be made by the Department of General Services on behalf of an

authorized state agency or department. Purchases of body armor shall be based upon written requests submitted by an authorized state agency or department to the Department of General Services.

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

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

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

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

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

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

**§ 31355. Department of Justice regulations**

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

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

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

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

31360. (a) Any person who has been convicted of a violent felony under the laws of the United States, the State of California, or any other state, government, or country, who purchases, owns, or possesses body armor, as defined by Section 942 of Title 11 of the California Code of Regulations, except as authorized under subdivision (b), is guilty of a felony, punishable by imprisonment in a state prison for 16 months, or two or three years.

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

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

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

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

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

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

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

## 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

**§ 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”).

**§ 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.

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

See Sections 16170 (“antique firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”).

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).

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

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

(b) Any person who alters, counterfeits, or falsifies a handgun safety certificate, or who uses or attempts to use any altered, counterfeited, or falsified handgun safety certificate to purchase a handgun 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 this section and different provisions of this code shall not be punished under more than one provision.

**Comment.** Section 31620 continues former Section 12802 without substantive change.

See Sections 16640 (“handgun”), 16670 (“handgun safety certificate”).

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

31625. (a) No certified instructor may issue a handgun safety certificate to any person who has not complied with this article. Proof of compliance shall be

forwarded to the department by certified instructors as frequently as the department may determine.

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

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

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

See Sections 16370 ("certified instructor" or "DOJ certified instructor"), 16450 ("department"), 16640 ("handgun"), 16670 ("handgun safety certificate").

### § 31630. Instructional materials

31630. (a) The department shall develop an instruction manual in English and in Spanish by October 1, 2002. The department shall make the instructional manual available to firearms dealers licensed pursuant to Sections 26700 to 26915, inclusive, who shall make it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 34205.

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

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

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

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

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

For guidance on potential liability for implementation of this section, see Section 31665 (immunity).

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

### § 31635. Certified instructors

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

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

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

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

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

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

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

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

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

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

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

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

For guidance on potential liability for implementation of this section, see Section 31665 (immunity).

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

#### **§ 31640. Written objective test**

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

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

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

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

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

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

(4) Current law as it relates to the permissible use of lethal force.

(5) What constitutes safe firearm storage.

(6) Issues associated with bringing a handgun into the home.

(7) Prevention strategies to address issues associated with bringing firearms into the home.

(d) The department shall update test materials related to this article every five years.

(e) If a dealer licensed pursuant to Sections 26700 to 26915, inclusive, or his or her employee, or where the managing officer or partner is certified as an instructor pursuant to this article, he or she shall also designate a separate room or partitioned area for a person to take the objective test, and maintain adequate supervision to assure that no acts of collusion occur while the objective test is being administered.

**Comment.** Subdivision (a) of Section 31640 continues the first sentence of former Section 12804(c)(1) without substantive change.

Subdivision (b) continues former Section 12804(c)(2) and the second sentence of former Section 12804(c)(1) without substantive change.

Subdivision (c) continues the third sentence of former Section 12804(c)(1) without substantive change.

Subdivision (d) continues former Section 12804(i) without substantive change.

Subdivision (e) continues former Section 12804(e) without substantive change. For further guidance regarding prevention of collusion, see Sections 27550 (no collusion), 31620 (collusion or alteration, counterfeiting, or falsification of handgun safety certificate).

For guidance on potential liability for implementation of this section, see Section 31665 (immunity).

See Sections 16450 (“department”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

### **§ 31645. Test results and retesting**

31645. (a) An applicant for a handgun safety certificate shall successfully pass the objective test referred to in Section 31640, with a passing grade of at least 75 percent. Any person receiving a passing grade on the objective test shall immediately be issued a handgun safety certificate by the instructor.

(b) An applicant who fails to pass the objective test upon the first attempt shall be offered additional instructional materials by the instructor, such as a videotape or booklet. The person may not retake the objective test under any circumstances until 24 hours have elapsed after the failure to pass the objective test upon the first attempt. The person failing the test on the first attempt shall take another version of the test upon the second attempt. All tests shall be taken from the same instructor except upon permission by the department, which shall be granted only for good cause shown. The instructor shall make himself or herself available to the applicant during regular business hours in order to retake the test.

**Comment.** Subdivision (a) of Section 31645 continues former Section 12805(a) without substantive change.

Subdivision (b) continues former Section 12805(b) without substantive change.

See Sections 16450 (“department”), 16670 (“handgun safety certificate”).

### **§ 31650. Fees**

31650. (a) The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be paid to the department pursuant to subdivision (c).

(b) An applicant to renew a handgun safety certificate shall be required to pass the objective test. The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant to subdivision (c).

(c) The department may charge the certified instructor up to fifteen dollars (\$15) for each handgun safety certificate issued by that instructor to cover the department’s cost in carrying out and enforcing this article, and enforcing the provisions listed in subdivision (e), as determined annually by the department.

(d) All money received by the department pursuant to this article shall be deposited into the Firearms Safety and Enforcement Special Fund created pursuant to Section 28300.

(e) The department shall conduct enforcement activities, including, but not limited to, law enforcement activities to ensure compliance with the following provisions:

(1) Section 830.95.

(2) Title 2 (commencing with Section 12001) of Part 4.

(3) This part, except Sections 16965, 17235, and 21510.

**Comment.** Subdivision (a) of Section 31650 continues former Section 12805(c) without substantive change.

Subdivision (b) continues former Section 12805(d) without substantive change.

Subdivision (c) continues former Section 12805(e) without substantive change.

Subdivision (d) continues former Section 12805(f) without substantive change.

Subdivision (e) continues former Section 12805(g) without substantive change.

See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450 (“department”), 16670 (“handgun safety certificate”).

#### **§ 31655. Preparation and duration of handgun safety certificates**

31655. (a) The department shall develop handgun safety certificates to be issued by instructors certified by the department, to those persons who have complied with this article.

(b) A handgun safety certificate shall include, but not be limited to, the following information:

(1) A unique handgun safety certificate identification number.

(2) The holder’s full name.

(3) The holder’s date of birth.

(4) The holder’s driver’s license or identification number.

(5) The holder’s signature.

(6) The signature of the issuing instructor.

(7) The date of issuance.

(c) The handgun safety certificate shall expire five years after the date that it was issued by the certified instructor.

**Comment.** Subdivision (a) of Section 31655 continues former Section 12804(g) without substantive change. For guidance on potential liability for implementation of this subdivision, see Section 31665 (immunity).

Subdivision (b) continues former Section 12806(a) without substantive change.

Subdivision (c) continues former Section 12806(b) without substantive change.

See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450 (“department”), 16670 (“handgun safety certificate”).

#### **§ 31660. Duplicate certificate**

31660. (a) In the case of loss or destruction of a handgun safety certificate, the issuing instructor shall issue a duplicate certificate upon request and proof of identification to the certificate holder.

(b) The department may authorize the issuing instructor to charge a fee not to exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund, created pursuant to Section 28300.

**Comment.** Section 31660 continues former Section 12808 without substantive change. See Sections 16450 (“department”), 16670 (“handgun safety certificate”).

#### **§ 31665. Immunity**

31665. The department shall be immune from any liability arising from implementing Sections 31630, 31635, 31640, and subdivision (a) of Section 31655.

**Comment.** Section 31665 continues former Section 12804(h) without substantive change. See Section 16450 (“department”).

#### **§ 31670. Operative date**

31670. Except for the provisions of former Section 12804, former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 became operative on January 1, 2003.

**Comment.** Section 31670 continues former Section 12809 without substantive change.

Former Article 8 of Chapter 6 of Title 2 of Part 4 consisted of former Sections 12800-12809. One provision in that article, former Section 12804, became operative on January 1, 2002. It is continued in Sections 31630, 31635, 31640, 31655(a), and 31665. The remainder of the article had a delayed operative date of January 1, 2003. Those provisions are continued in Sections 31610-31625, 31645-31650, 31655(b)-(c), 31660, and 31700.

### Article 3. Exceptions to Handgun Safety Certificate Requirement

#### **§ 31700. Persons exempted from handgun safety certificate requirement**

31700. (a) The following persons, properly identified, are exempted from the handgun safety certificate requirement in subdivision (a) of Section 31615:

(1) Any active or honorably retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Any active or honorably retired federal officer or law enforcement agent.

(3) Any reserve peace officer, as defined in Section 832.6.

(4) Any person who has successfully completed the course of training specified in Section 832.

(5) A firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, who is acting in the course and scope of that person’s activities as a person licensed pursuant to Sections 26700 to 26915, inclusive.

(6) A federally licensed collector who is acquiring or being loaned a handgun that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, who has a current certificate of eligibility issued by the department pursuant to Section 26710.

(7) A person to whom a handgun is being returned, where the person receiving the firearm is the owner of the firearm.

(8) A family member of a peace officer or deputy sheriff from a local agency who receives a firearm pursuant to Section 50081 of the Government Code.

(9) Any individual who has a valid concealed weapons permit issued pursuant to Chapter 4 (commencing with Section 26150) of Division 5.

(10) An active, or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, the active reserve components of the United States, where individuals in those organizations are properly identified. For purposes of this section, proper identification includes the Armed Forces Identification Card, or other written documentation certifying that the individual is an active or honorably retired member.

(11) Any person who is authorized to carry loaded firearms pursuant to Section 26025 or 26030.

(12) Persons who are the holders of a special weapons permit issued by the department pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division.

(b) The following persons who take title or possession of a handgun by operation of law in a representative capacity, until or unless they transfer title ownership of the handgun to themselves in a personal capacity, are exempted from the handgun safety certificate requirement in subdivision (a) of Section 31615:

(1) The executor or administrator of an estate.

(2) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(3) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(4) A receiver performing the functions of a receiver.

(5) A trustee in bankruptcy performing the duties of a trustee.

(6) An assignee for the benefit of creditors performing the functions of an assignee.

**Comment.** Section 31700 continues former Section 12807 without substantive change.

See Sections 16370 (“certified instructor” or “DOJ certified instructor”), 16450 (“department”), 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31705. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

31705. (a) Subdivision (a) of Section 31615 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for

exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 31705 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions relating to law enforcement, see Sections 31700, 31710-31720, 31730. See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 31710. Exception for loan of firearm to peace officer employee for use in performing official duties**

31710. Subdivision (a) of Section 31615 does not apply to the loan of a firearm if all of the following conditions are satisfied:

(a) The loan is made by an authorized law enforcement representative of a city, county, or city and county, or of the state or federal government.

(b) The loan is made to a peace officer employed by that agency and authorized to carry a firearm.

(c) The loan is made for the carrying and use of that firearm by that peace officer in the course and scope of the officer’s duties.

**Comment.** Section 31710 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions relating to law enforcement, see Sections 31700-31705, 31715-31720, 31730.

See Section 16520 (“firearm”).

**§ 31715. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

31715. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered

into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 31715 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions relating to law enforcement, see Sections 31700-31710, 31720, 31730. See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 31720. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

31720. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 31720 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions relating to law enforcement, see Sections 31700-31715, 31730. See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 31725. Exception for sale, delivery, or transfer to governmental entity as part of program in which entity is acquiring weapons from private individuals**

31725. (a) Subdivision (a) of Section 31615 does not apply to a sale, delivery, or transfer of firearms if both of the following requirements are satisfied:

(1) The sale, delivery, or transfer is to an authorized representative of a city, city and county, county, or state government, or of the federal government, and is for the governmental entity.

(2) The entity is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals.

(b) Any weapons acquired pursuant to this section shall be disposed of pursuant to the applicable provisions of Section 34000 or Sections 18000 and 18005.

**Comment.** Section 31725 continues former Section 12078(a)(6) without substantive change, as that provision applied to former Section 12801(b).

See Section 16520 (“firearm”).

**§ 31730. Exception for sale, delivery, loan, or transfer by law enforcement representative to nonprofit historical society, museum, or institutional collection**

31730. Subdivision (a) of Section 31615 does not apply to the sale, delivery, loan, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, or state, or of the federal government, to any public or private nonprofit historical society, museum, or institutional collection, or the purchase or receipt of that firearm by that public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

- (a) The entity receiving the firearm is open to the public.
- (b) The firearm prior to delivery is deactivated or rendered inoperable.
- (c) The firearm is not subject to any of the following:
  - (1) Sections 18000 and 18005.
  - (2) Division 4 (commencing with Section 18250) of Title 2.
  - (3) Section 34000.
  - (4) Sections 34005 and 34010.

(d) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.

(e) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, Section 31615.

(f) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, all of the following information shall be reported to the department in a manner prescribed by the department:

- (1) The name of the government entity delivering the firearm.
- (2) The make, model, serial number, and other identifying characteristics of the firearm.
- (3) The name of the person authorized by the entity to take possession of the firearm.

(g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

**Comment.** Section 31730 continues former Section 12078(a)(7) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions relating to law enforcement, see Sections 31700-31720. For another exception relating to a nonprofit historical society, museum, or institutional collection, see Section 31735.

See Section 16520 (“firearm”).

**§ 31735. Exception for sale, delivery, loan, or transfer by person other than law enforcement representative to nonprofit historical society, museum, or institutional collection**

31735. Subdivision (a) of Section 31615 does not apply to the sale, delivery, loan, or transfer of a firearm made by any person other than a representative of an

authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

- (a) The entity receiving the firearm is open to the public.
- (b) The firearm is deactivated or rendered inoperable prior to delivery.
- (c) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.
- (d) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, with Section 31615.
- (e) If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that entity shall, within 30 days of taking possession of that handgun, forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, which includes all of the following information:
  - (1) Information identifying the person representing the public or private historical society, museum, or institutional collection.
  - (2) Information on how title was obtained and from whom.
  - (3) A description of the firearm in question.
  - (4) A copy of the written statement referred to in subdivision (d).
- (f) The report forms that are to be completed pursuant to this section shall be provided by the Department of Justice.
- (g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

**Comment.** Section 31735 continues former Section 12078(a)(8) without substantive change, as that provision applied to former Section 12801(b).

For another exception relating to a nonprofit historical society, museum, or institutional collection, see Section 31730.

See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 31740. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers**

31740. Subdivision (a) of Section 31615 does not apply to sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 31740 continues former Section 12078(b)(1) without substantive change, as that provision applied to former Section 12801(b).

See Section 16520 (“firearm”).

**§ 31745. Exception for sale, delivery, or transfer of handgun to dealer acting in course and scope of activities as dealer**

31745. Subdivision (a) of Section 31615 shall not apply to the sale, delivery, or transfer of a handgun to a person licensed pursuant to Sections 26700 to 26915, inclusive, where the licensee is receiving the handgun in the course and scope of the licensee's activities as a person licensed pursuant to Sections 26700 to 26915, inclusive.

**Comment.** Section 31745 continues former Section 12078(b)(2) without substantive change.

See Sections 16640 ("handgun"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

**§ 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**

31750. Subdivision (a) of Section 31615 does not apply to the loan of a firearm if all of the following conditions exist:

(a) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(b) The loan is for a lawful purpose.

(c) The loan does not exceed three days in duration.

(d) The individual receiving the firearm is not prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm.

(e) The person loaning the firearm is 18 years of age or older.

(f) The person being loaned the firearm is 18 years of age or older.

**Comment.** Section 31750 continues former Section 12078(d)(2) without substantive change, as that provision applied to former Section 12801(b).

See Section 16520 ("firearm").

**§ 31755. Exception for service or repair by gunsmith**

31755. Subdivision (a) of Section 31615 does not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

**Comment.** Section 31755 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 ("firearm"), 16630 ("gunsmith").

**§ 31760. Exception for sale, delivery, or transfer by resident to licensed nonresident**

31760. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of firearms if all of the following requirements are satisfied:

(a) The sale, delivery, or transfer is made by a person who resides in this state.

(b) The sale, delivery, or transfer is made to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) The sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 31760 continues former Section 12078(f) without substantive change, as that provision applied to former Section 12801(b).  
See Section 16520 (“firearm”).

**§ 31765. Exception for loan of firearm to person 18 or older for target shooting under specified circumstances**

31765. Subdivision (a) of Section 31615 does not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

**Comment.** Section 31765 continues former Section 12078(h) without substantive change, as that provision applied to former Section 12801(b).  
For another exception relating to target shooting, see Section 31800.  
See Section 16520 (“firearm”).

**§ 31770. Exception for deliveries, transfers, or returns made pursuant to certain statutes**

31770. Subdivision (a) of Section 31615 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (a) Sections 18000 and 18005.
- (b) Division 4 (commencing with Section 18250) of Title 2.
- (c) Chapter 2 (commencing with Section 33850) of Division 11.
- (d) Sections 34005 and 34010.

**Comment.** Section 31770 continues former Section 12078(j) without substantive change, as that provision applied to former Section 12801(b).  
See Section 16520 (“firearm”).

**§ 31775. Exception for sale, delivery, or transfer of unloaded firearms, other than handguns, by dealer to another dealer**

31775. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

- (a) The firearms are unloaded.
- (b) The firearms are not handguns.
- (c) The sale, delivery, or transfer is made by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

**Comment.** Section 31775 continues former Section 12078(k)(1) without substantive change, as that provision applied to former Section 12801(b).  
See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31780. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed nonresident**

31780. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of unloaded firearms by a dealer to a person who resides outside this state

and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 31780 continues former Section 12078(k)(2) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31785. Exception for return of unloaded firearms to wholesaler to treat as merchandise**

31785. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler’s business.

**Comment.** Section 31785 continues former Section 12078(k)(3) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 (“firearm”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31790. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another dealer to treat as merchandise**

31790. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

- (a) The firearms are unloaded.
- (b) The sale, delivery, or transfer is made by one dealer to another dealer, upon proof of compliance with the requirements of Section 27555.
- (c) The firearms are intended as merchandise in the receiving dealer’s business

**Comment.** Section 31790 continues former Section 12078(k)(4) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31795. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun, by dealer to self**

31795. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

**Comment.** Section 31795 continues former Section 12078(k)(5) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 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**

31800. Subdivision (a) of Section 31615 does not apply to the loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon

established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

**Comment.** Section 31800 continues former Section 12078(k)(6) without substantive change, as that provision applied to former Section 12801(b).

For another exception relating to target shooting, see Section 31765.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31805. Exception for sale, delivery, or transfer of unloaded firearms to wholesaler by another wholesaler or by licensed manufacturer or importer**

31805. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler’s business by a manufacturer or importer licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the sale, delivery, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

**Comment.** Section 31805 continues former Section 12078(m) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 (“firearm”), 17340 (“wholesaler”).

**§ 31810. Exception for certain situations involving minor**

31810. Subdivision (a) of Section 31615 does not apply to or affect the following circumstances:

(a) The loan of a handgun to a minor by the minor’s parent or legal guardian, if both of the following requirements are satisfied:

(1) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(2) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(b) The loan of a handgun to a minor by a person who is not the minor’s parent or legal guardian, if all of the following requirements are satisfied:

(1) The minor is accompanied by the minor’s parent or legal guardian when the loan is made, or the minor has the written consent of the minor’s parent or legal guardian, which is presented at the time of the loan, or earlier.

(2) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video

production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(3) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) The duration of the loan does not, in any event, exceed 10 days.

**Comment.** Subdivision (a) of Section 31810 continues former Section 12078(p)(3) without substantive change, as that provision applied to former Section 12801(b).

Subdivision (b) continues former Section 12078(p)(2) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 31815. Exception for infrequent loan of unloaded firearm for use solely as prop**

31815. Subdivision (a) of Section 31615 does not apply to the loan of a firearm if all of the following requirements are satisfied:

(a) The loan is infrequent, as defined in Section 16730.

(b) The firearm is unloaded.

(c) The loan is made by a person who is neither a dealer nor a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code.

(d) The loan is made to a person 18 years of age or older.

(e) The loan is for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

**Comment.** Section 31815 continues former Section 12078(s)(1) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions pertaining to firearms used as props, see Sections 31820-31825.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31820. Exception loan of unloaded firearm, for use solely as prop, by federal firearms licensee to person with entertainment firearms permit**

31820. (a) Subdivision (a) of Section 31615 does not apply to the loan of a firearm if all of the following requirements are satisfied:

(1) The firearm is unloaded.

(2) The loan is made by a person who is not a dealer but is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code.

(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.

(4) The firearm is loaned for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(b) The person loaning the firearm pursuant to this section shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

**Comment.** Section 31820 continues former Section 12078(s)(2) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions pertaining to firearms used as props, see Sections 31815 and 31825.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31825. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit**

31825. (a) Subdivision (a) of Section 31615 does not apply to the loan of a firearm if all of the following conditions are satisfied:

(1) The firearm is unloaded.

(2) The loan is made by a dealer.

(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.

(4) The firearm is loaned solely for use as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(b) The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

**Comment.** Section 31825 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12801(b).

For other exceptions pertaining to firearms used as props, see Sections 31815-31820.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 31830. Exception for short-term loan of unloaded firearm by dealer to consultant-evaluator**

31830. (a) Subdivision (a) of Section 31615 does not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the date of delivery.

(b) At the time of the loan, the consultant-evaluator shall provide the following information, which the dealer shall retain for two years:

(1) A photocopy of a valid, current, government-issued identification to determine the consultant-evaluator’s identity, including, but not limited to, a California driver’s license, identification card, or passport.

(2) A photocopy of the consultant-evaluator’s valid, current certificate of eligibility.

(3) A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

(4) The signature of the consultant-evaluator on a form indicating the date the firearm is loaned and the last day the firearm may be returned.

**Comment.** Section 31830 continues former Section 12078(s)(4) without substantive change, as that provision applied to former Section 12801(b).

See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### Article 4. “Unsafe Handgun” and Related Definitions

##### § 31900. “Drop safety requirement for handguns”

31900. As used in this part, the “drop safety requirement for handguns” means that at the conclusion of the firing requirements for handguns described in Section 31905, the same certified independent testing laboratory shall subject the same three handguns of the make and model for which certification is sought, to the following test:

(a) A primed case (no powder or projectile) shall be inserted into the chamber. For a pistol, the slide shall be released, allowing it to move forward under the impetus of the recoil spring, and an empty magazine shall be inserted. For both a pistol and a revolver, the weapon shall be placed in a drop fixture capable of dropping the pistol from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the largest side of a slab of solid concrete having minimum dimensions of 7.5 x 15 x 15 cm (3 x 6 x 6 in.). The drop distance shall be measured from the lowermost portion of the weapon to the top surface of the slab. The weapon shall be dropped from a fixture and not from the hand. The weapon shall be dropped in the condition that it would be in if it were dropped from a hand (cocked with no manual safety applied). If the pistol is designed so that upon leaving the hand a “safety” is automatically applied by the pistol, this feature shall not be defeated. An approved drop fixture is a short piece of string with the weapon attached at one end and the other end held in an air vise until the drop is initiated.

(b) The following six drops shall be performed:

(1) Normal firing position with barrel horizontal.

(2) Upside down with barrel horizontal.

(3) On grip with barrel vertical.

(4) On muzzle with barrel vertical.

(5) On either side with barrel horizontal.

(6) If there is an exposed hammer or striker, on the rearmost point of that device, otherwise on the rearmost point of the weapon.

(c) The primer shall be examined for indentations after each drop. If indentations are present, a fresh primed case shall be used for the next drop.

(d) The handgun shall pass this test if each of the three test guns does not fire the primer.

**Comment.** Section 31900 continues former Section 12128 without substantive change.

For the definition of “unsafe handgun,” see Section 31910. For rules governing unsafe handguns, see Sections 32000-32030. For exceptions to those rules, see Sections 32100

(exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”).

**§ 31905. “Firing requirement for handguns”**

31905. (a) As used in this part, “firing requirement for handguns” means a test in which the manufacturer provides three handguns of the make and model for which certification is sought to an independent testing laboratory certified by the Attorney General pursuant to Section 32010. These handguns may not be refined or modified in any way from those that would be made available for retail sale if certification is granted. The magazines of a tested pistol shall be identical to those that would be provided with the pistol to a retail customer.

(b) The test shall be conducted as follows:

(1) The laboratory shall fire 600 rounds from each gun, stopping after each series of 50 rounds has been fired for 5 to 10 minutes to allow the weapon to cool, stopping after each series of 100 rounds has been fired to tighten any loose screws and clean the gun in accordance with the manufacturer’s instructions, and stopping as needed to refill the empty magazine or cylinder to capacity before continuing.

(2) The ammunition used shall be of the type recommended by the handgun manufacturer in the user manual, or if none is recommended, any standard ammunition of the correct caliber in new condition that is commercially available.

(c) A handgun shall pass this test if each of the three test guns meets both of the following:

(1) Fires the first 20 rounds without a malfunction that is not due to ammunition that fails to detonate.

(2) Fires the full 600 rounds with no more than six malfunctions that are not due to ammunition that fails to detonate and without any crack or breakage of an operating part of the handgun that increases the risk of injury to the user.

(d) If a pistol or revolver fails the requirements of either paragraph (1) or (2) of subdivision (c) due to ammunition that fails to detonate, the pistol or revolver shall be retested from the beginning of the “firing requirement for handguns” test. A new model of the pistol or revolver that failed due to ammunition that fails to detonate may be submitted for the test to replace the pistol or revolver that failed.

(e) As used in this section, “malfunction” means a failure to properly feed, fire, or eject a round, or failure of a pistol to accept or eject the magazine, or failure of a pistol’s slide to remain open after the magazine has been expended.

**Comment.** Section 31905 continues former Section 12127 without substantive change.

For the definition of “unsafe handgun,” see Section 31910. For rules governing unsafe handguns, see Sections 32000-32030. For exceptions to those rules, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”).

**§ 31910. “Unsafe handgun”**

31910. As used in this part, “unsafe handgun” means any pistol, revolver, or other firearm capable of being concealed upon the person, for which any of the following is true:

(a) For a revolver:

(1) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(b) For a pistol:

(1) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated by the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(4) Commencing January 1, 2006, for a center fire semiautomatic pistol that is not already listed on the roster pursuant to Section 32015, it does not have either a chamber load indicator, or a magazine disconnect mechanism.

(5) Commencing January 1, 2007, for all center fire semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it does not have both a chamber load indicator and if it has a detachable magazine, a magazine disconnect mechanism.

(6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it does not have a magazine disconnect mechanism, if it has a detachable magazine.

(7)(A) Commencing January 1, 2010, for all semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it is not designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol, etched or otherwise imprinted in two or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired, provided that the Department of Justice certifies that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions.

(B) The Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in this paragraph, to be thereafter required as otherwise set forth by this paragraph where the Attorney General certifies that this new method is also unencumbered by any patent restrictions. Approval by the Attorney General shall include notice of that fact via regulations adopted by the Attorney General for purposes of implementing that method for purposes of this paragraph.

(C) The microscopic array of characters required by this section shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, within the meaning of Sections 23900 and 23920.

**Comment.** Section 31910 continues the introductory clause and subdivisions (a) and (b) of former Section 12126 without substantive change.

For rules governing unsafe handguns, see Sections 32000-32030. For exceptions to those rules, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16380 ("chamber load indicator"), 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16640 ("handgun"), 16900 ("magazine disconnect mechanism"), 17140 ("semiautomatic pistol"), 31900 ("drop safety requirement for handguns"), 31905 ("firing requirement for handguns").

## Article 5. Rules Governing Unsafe Handguns

### § 32000. Manufacture, import, sale, gift, or loan of unsafe handgun

32000. (a) Commencing January 1, 2001, any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year.

(b) This section shall not apply to any of the following:

(1) The manufacture in this state, or importation into this state, of any prototype pistol, revolver, or other firearm capable of being concealed upon the person when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice pursuant to Section 32010 to conduct an independent test to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person is prohibited by Sections 31900 to 32110, inclusive, and, if not, allowing the department to add the firearm to the roster of pistols, revolvers, and other firearms capable of being concealed upon the person that may be sold in this state pursuant to Section 32015.

(2) The importation or lending of a pistol, revolver, or other firearm capable of being concealed upon the person by employees or authorized agents of entities determining whether the weapon is prohibited by this section.

(3) Firearms listed as curios or relics, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(4) The sale or purchase of any pistol, revolver or other firearm capable of being concealed upon the person, if the pistol, revolver, or other firearm is sold to, or purchased by, the Department of Justice, any police department, any sheriff's official, any marshal's office, the Youth and Adult Correctional Agency, the California Highway Patrol, any district attorney's office, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. Nor shall anything in this section prohibit the sale to, or purchase by, sworn

members of these agencies of any pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Violations of subdivision (a) are cumulative with respect to each handgun and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in Section 654.

**Comment.** Section 32000 continues former Section 12125 without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”), 31910 (“unsafe handgun”).

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).

#### **§ 32005. Certification of manufacturer, importer, or seller**

32005. (a) Every person who is licensed as a manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and who manufactures firearms in this state shall certify under penalty of perjury and any other remedy provided by law that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that the person manufactures is not an unsafe handgun as prohibited by Sections 31900 to 32110, inclusive.

(b) Every person who imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm shall certify under penalty of perjury and any other remedy provided by law that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that the person imports, keeps, or exposes for sale is not an unsafe handgun as prohibited by Sections 31900 to 32110, inclusive.

**Comment.** Section 32005 continues former Section 12129 without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 31910 (“unsafe handgun”).

### § 32010. Laboratory testing

32010. (a) Any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, shall be tested within a reasonable period of time by an independent laboratory certified pursuant to subdivision (b) to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person meets or exceeds the standards defined in Section 31910.

(b) On or before October 1, 2000, the Department of Justice shall certify laboratories to verify compliance with the standards defined in Section 31910. The department may charge any laboratory that is seeking certification to test any pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Sections 31900 to 32110, inclusive, a fee not exceeding the costs of certification.

(c) The certified testing laboratory shall, at the manufacturer’s or importer’s expense, test the firearm and submit a copy of the final test report directly to the Department of Justice along with a prototype of the weapon to be retained by the department. The department shall notify the manufacturer or importer of its receipt of the final test report and the department’s determination as to whether the firearm tested may be sold in this state.

(d)(1) Commencing January 1, 2006, no center-fire semiautomatic pistol may be submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it does not have either a chamber load indicator, or a magazine disconnect mechanism if it has a detachable magazine.

(2) Commencing January 1, 2007, no center-fire semiautomatic pistol may be submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it does not have both a chamber load indicator and a magazine disconnect mechanism.

(3) Commencing January 1, 2006, no rimfire semiautomatic pistol may be submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it has a detachable magazine, and does not have a magazine disconnect mechanism.

**Comment.** Section 32010 continues former Section 12130 without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16380 (“chamber load indicator”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16900 (“magazine disconnect mechanism”), 17140 (“semiautomatic pistol”).

**§ 32015. Roster prepared by Department of Justice**

32015. (a) On and after January 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold in this state pursuant to this part. The roster shall list, for each firearm, the manufacturer, model number, and model name.

(b)(1) The department may charge every person in this state who is licensed as a manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster pursuant to subdivision (a) and the costs of research and development, report analysis, firearms storage, and other program infrastructure costs necessary to implement Sections 31900 to 32110, inclusive.

(2) Any pistol, revolver, or other firearm capable of being concealed upon the person that is manufactured by a manufacturer who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, and who fails to pay any fee required pursuant to paragraph (1), may be excluded from the roster.

(3) If a purchaser has initiated a transfer of a handgun that is listed on the roster as not unsafe, and prior to the completion of the transfer, the handgun is removed from the roster of not unsafe handguns because of failure to pay the fee required to keep that handgun listed on the roster, the handgun shall be deliverable to the purchaser if the purchaser is not otherwise prohibited from purchasing or possessing the handgun. However, if a purchaser has initiated a transfer of a handgun that is listed on the roster as not unsafe, and prior to the completion of the transfer, the handgun is removed from the roster pursuant to subdivision (d) of Section 32020, the handgun shall not be deliverable to the purchaser.

**Comment.** Section 32015 continues former Section 12131(a)-(b) without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”), 31910 (“unsafe handgun”).

**§ 32020. Retesting of handgun models on roster**

32020. (a) The Attorney General may annually retest up to 5 percent of the handgun models that are listed on the roster described in subdivision (a) of Section 32015.

(b) The retesting of a handgun model pursuant to subdivision (a) shall conform to the following:

(1) The Attorney General shall obtain from retail or wholesale sources, or both, three samples of the handgun model to be retested.

(2) The Attorney General shall select the certified laboratory to be used for the retesting.

(3) The ammunition used for the retesting shall be of a type recommended by the manufacturer in the user manual for the handgun. If the user manual for the handgun model makes no ammunition recommendation, the Attorney General shall select the ammunition to be used for the retesting. The ammunition shall be of the proper caliber for the handgun, commercially available, and in new condition.

(c) The retest shall be conducted in the same manner as the testing prescribed in Sections 31900 and 31905.

(d) If the handgun model fails retesting, the Attorney General shall remove the handgun model from the roster maintained pursuant to subdivision (a) of Section 32015.

**Comment.** Section 32020 continues former Section 12131(c)-(f) without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Section 16640 (“handgun”).

#### **§ 32025. Reinstatement of handgun model on roster**

32025. A handgun model removed from the roster pursuant to subdivision (d) of Section 32020 may be reinstated on the roster if all of the following are met:

(a) The manufacturer petitions the Attorney General for reinstatement of the handgun model.

(b) The manufacturer pays the Department of Justice for all of the costs related to the reinstatement testing of the handgun model, including the purchase price of the handguns, prior to reinstatement testing.

(c) The reinstatement testing of the handguns shall be in accordance with subdivisions (b) and (c) of Section 32020.

(d) The three handgun samples shall be tested only once for reinstatement. If the sample fails it may not be retested.

(e) If the handgun model successfully passes testing for reinstatement, and if the manufacturer of the handgun is otherwise in compliance with Sections 31900 to 32110, inclusive, the Attorney General shall reinstate the handgun model on the roster maintained pursuant to subdivision (a) of Section 32015.

(f) The manufacturer shall provide the Attorney General with the complete testing history for the handgun model.

(g) Notwithstanding subdivision (a) of Section 32020, the Attorney General may, at any time, further retest any handgun model that has been reinstated to the roster.

**Comment.** Section 32025 continues former Section 12131(g) without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Section 16640 (“handgun”).

**§ 32030. Firearm differing in insignificant respects from listed firearm**

32030. (a) A firearm shall be deemed to satisfy the requirements of subdivision (a) of Section 32015 if another firearm made by the same manufacturer is already listed and the unlisted firearm differs from the listed firearm only in one or more of the following features:

(1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or engraving.

(2) The material from which the grips are made.

(3) The shape or texture of the grips, so long as the difference in grip shape or texture does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the firearm.

(4) Any other purely cosmetic feature that does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the firearm.

(b) Any manufacturer seeking to have a firearm listed under this section shall provide to the Department of Justice all of the following:

(1) The model designation of the listed firearm.

(2) The model designation of each firearm that the manufacturer seeks to have listed under this section.

(3) A statement, under oath, that each unlisted firearm for which listing is sought differs from the listed firearm only in one or more of the ways identified in subdivision (a) and is in all other respects identical to the listed firearm.

(c) The department may, in its discretion and at any time, require a manufacturer to provide to the department any model for which listing is sought under this section, to determine whether the model complies with the requirements of this section.

**Comment.** Section 32030 continues former Section 12131.5 without substantive change.

For exceptions to the rules stated in this article, see Sections 32100 (exception for single-shot pistol or single-action revolver meeting certain specifications), 32105 (exception for pistols used in Olympic target shooting events), 32110 (other exceptions).

See Section 16520 (“firearm”).

Article 6. Exceptions to Rules Governing Unsafe Handguns

**§ 32100. Exception for single-shot pistol or single-action revolver meeting certain specifications**

32100. (a) Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to a single-action revolver that has at least a 5-cartridge capacity with a barrel length of not less than three inches, and meets any of the following specifications:

(1) Was originally manufactured prior to 1900 and is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(2) Has an overall length measured parallel to the barrel of at least 7½ inches when the handle, frame or receiver, and barrel are assembled.

(3) Has an overall length measured parallel to the barrel of at least 7½ inches when the handle, frame or receiver, and barrel are assembled and that is currently approved for importation into the United States pursuant to the provisions of paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States Code.

(b) Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to a single-shot pistol with a barrel length of not less than six inches and that has an overall length of at least 10½ inches when the handle, frame or receiver, and barrel are assembled.

**Comment.** Section 32100 continues former Section 12133 without substantive change.

See Section 16520 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 32105. Exception for pistols used in Olympic target shooting events**

32105. (a) The Legislature finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that were used for Olympic target shooting purposes as of January 1, 2001, and that fall within the definition of “unsafe handgun” pursuant to paragraph (3) of subdivision (b) of Section 31910 shall be exempt, as provided in subdivisions (b) and (c).

(b) Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to any of the following pistols, because they are consistent with the significant public purpose expressed in subdivision (a):

<u>MANUFACTURER</u>	<u>MODEL</u>	<u>CALIBER</u>
ANSCHUTZ	FP	.22LR
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG

BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
DRULOV	FP	.22LR
GREEN	ELECTROARM	.22LR
HAMMERLI	100	.22LR
HAMMERLI	101	.22LR
HAMMERLI	102	.22LR
HAMMERLI	162	.22LR
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	FP10	.22LR
HAMMERLI	MP33	.22LR
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
MORINI	CM102E	.22LR
MORINI	22M	.22LR
MORINI	32M	.32 S&W LONG
MORINI	CM80	.22LR
PARDINI	GP	.22 SHORT
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	K22	.22LR
PARDINI	MP	.32 S&W LONG
PARDINI	PGP75	.22LR
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
SAKO	FINMASTER	.22LR
STEYR	FP	.22LR
VOSTOK	IZH NO. 1	.22LR
VOSTOK	MU55	.22LR
VOSTOK	TOZ35	.22LR
WALTHER	FP	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(c) The department shall create a program that is consistent with the purpose stated in subdivision (a) to exempt new models of competitive firearms from Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000). The exempt competitive firearms may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

**Comment.** Section 32105 continues former Section 12132(h) without substantive change. See Sections 16520 (“firearm”), 16520 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

**§ 32110. Other exceptions**

32110. Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to any of the following:

(a) The sale, loan, or transfer of any firearm pursuant to Chapter 5 (commencing with Section 28050) of Division 6 in order to comply with Section 27545.

(b) The sale, loan, or transfer of any firearm that is exempt from the provisions of Section 27545 pursuant to any applicable exemption contained in Article 2 (commencing with Section 27600) or Article 6 (commencing with Section 27850) of Chapter 4 of Division 6, if the sale, loan, or transfer complies with the requirements of that applicable exemption to Section 27545.

(c) The sale, loan, or transfer of any firearm as described in paragraph (3) of subdivision (b) of Section 32000.

(d) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, for the purposes of the service or repair of that firearm.

(e) The return of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Sections 26700 to 26915, inclusive, to its owner where that firearm was initially delivered in the circumstances set forth in subdivisions (a), (d), (f) or (i).

(f) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, for the purpose of a consignment sale or as collateral for a pawnbroker loan.

(g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(h) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely as a prop during the course of a motion picture, television, or video production by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(i) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915,

inclusive, where the firearm is being loaned by the licensee to a consultant-evaluator.

(j) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Sections 26700 to 26915, inclusive, where the firearm is being loaned by the licensee to a consultant-evaluator.

(k) The return of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Sections 26700 to 26915, inclusive, where it was initially delivered pursuant to subdivision (j).

**Comment.** Subdivisions (a)-(g) of Section 32110 continue former Section 12132(a)-(g) without substantive change. A cross-reference to nonexistent Section 178.11 of the Code of Federal Regulations has been replaced with a cross-reference to Section 478.11 of Title 27 of the Code of Federal Regulations.

Subdivisions (h)-(k) continue former Section 12132(i)-(l) without substantive change.

See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

## CHAPTER 5. LARGE-CAPACITY MAGAZINE

### Article 1. Rules Governing Large-Capacity Magazines

#### § 32310. Prohibition on manufacture, import, sale, gift, or loan of large-capacity magazine

32310. Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing January 1, 2000, 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, or lends, any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** Section 32310 continues former Section 12020(a)(2) 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), 32400-32450 (exceptions relating specifically to large-capacity magazines).

See Section 16740 (“large-capacity magazine”). See also Sections 17800 (distinct and separate offense), 32315 (permit for possession, transportation, or sale of large-capacity magazines between dealer and out-of-state client), 32390 (large-capacity magazine constituting nuisance).

#### § 32315. Permit for possession, transportation, or sale of large-capacity magazines between dealer and out-of-state client

32315. Upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a person licensed pursuant to Sections 26700 to 26915, inclusive, and an out-of-state client, of large-capacity magazines.

**Comment.** Section 32315 continues former Section 12079(a) without substantive change.

See Sections 16740 (“large-capacity magazine”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”). See also Section 32430 (exception for importation or sale of large-capacity magazine by person with permit).

**§ 32390. Large-capacity magazine constituting nuisance**

32390. Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any large-capacity magazine is a nuisance and is subject to Section 18010.

**Comment.** With respect to a large-capacity magazine, Section 32390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16740 (“large-capacity magazine”).

Article 2. Exceptions Relating Specifically to  
Large-Capacity Magazines

**§ 32400. Exception for sale, gift, loan, importation, or purchase of large-capacity magazine by law enforcement agency for use in law enforcement**

32400. Section 32310 does not apply to the sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

**Comment.** Section 32400 continues former Section 12020(b)(19) without substantive change. See Section 16740 (“large-capacity magazine”).

**§ 32405. Exception for sale, loan, or transfer of large-capacity magazine to peace officer, or purchase, receipt, or importation of large-capacity magazine by peace officer**

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of that officer’s duties.

**Comment.** Section 32405 continues former Section 12020(b)(20) without substantive change. See Sections 16520 (“firearm”), 16740 (“large-capacity magazine”).

**§ 32410. Exception for sale or purchase of large-capacity magazine by dealer**

32410. Section 32310 does not apply to the sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

**Comment.** Section 32410 continues former Section 12020(b)(21) without substantive change. See Sections 16740 (“large-capacity magazine”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 32415. Exception for loan of lawfully possessed large-capacity magazine between two individuals, under specified conditions**

32415. Section 32310 does not apply to the loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(a) The person being loaned the large-capacity magazine is not prohibited by Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(b) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited, and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

**Comment.** Section 32415 continues former Section 12020(b)(22) without substantive change. See Sections 16520 (“firearm”), 16740 (“large-capacity magazine”).

**§ 32420. Exception for importation of large-capacity magazine by person who lawfully possessed it in this state before January 1, 2000**

32420. Section 32310 does not apply to the importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the same large-capacity magazine.

**Comment.** Section 32420 continues former Section 12020(b)(23) without substantive change. See Section 16740 (“large-capacity magazine”).

**§ 32425. Exception for loan or gift to dealer or gunsmith for maintenance, repair, or modification, or return of large-capacity magazine by dealer or gunsmith**

32425. Section 32310 does not apply to either of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

**Comment.** Subdivision (a) of Section 32425 continues former Section 12020(b)(24) without substantive change.

Subdivision (b) continues former Section 12020(b)(25) without substantive change.

See Sections 16630 (“gunsmith”), 16740 (“large-capacity magazine”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 32430. Exception for importation or sale of large-capacity magazine by person with permit**

32430. Section 32310 does not apply to the importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 32315, when those activities are in accordance with the terms and conditions of that permit.

**Comment.** Section 32430 continues former Section 12020(b)(26) without substantive change. See Section 16740 (“large-capacity magazine”).

**§ 32435. Exceptions relating to entities that operate armored vehicle businesses**

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

**Comment.** Subdivision (a) of Section 32435 continues former Section 12020(b)(27) without substantive change.

Subdivision (b) continues former Section 12020(b)(28) without substantive change.

Subdivision (c) continues former Section 12020(b)(29) without substantive change.

See Section 16740 ("large-capacity magazine").

**§ 32440. Exceptions relating to manufacture of large-capacity magazines**

32440. Section 32310 does not apply to any of the following:

(a) The manufacture of a large-capacity magazine for any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(b) The manufacture of a large-capacity magazine for use by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of that officer's duties.

(c) The manufacture of a large-capacity magazine for export or for sale to government agencies or the military pursuant to applicable federal regulations.

**Comment.** Section 32440 continues former Section 12020(b)(30) without substantive change.

See Sections 16520 ("firearm"), 16740 ("large-capacity magazine").

**§ 32445. Exception for large-capacity magazine used solely as prop in motion picture, television, or video production**

32445. Section 32310 does not apply to the loan of a large-capacity magazine for use solely as a prop for a motion picture, television, or video production.

**Comment.** Section 32445 continues former Section 12020(b)(31) without substantive change.

See Section 16740 ("large-capacity magazine").

**§ 32450. Exception for purchase of large-capacity magazine by holder of special weapons permit, for certain purposes**

32450. Section 32310 does not apply to the purchase of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing

with Section 32700) of Chapter 6 of this division, for any of the following purposes:

- (a) For use solely as a prop for a motion picture, television, or video production.
- (b) For export pursuant to federal regulations.
- (c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

**Comment.** Section 32450 continues former Section 12020(b)(32) without substantive change. See Section 16740 (“large-capacity magazine”).

## CHAPTER 6. MACHINEGUNS

### Article 1. General Provisions

#### § 32610. Acquisition and use of machineguns by law enforcement

32610. Nothing in this chapter shall affect or apply to any of the following:

(a) The sale to, purchase by, or possession of machineguns by a police department, a sheriff’s office, a marshal’s office, a district attorney’s office, the California Highway Patrol, the Department of Justice, the Department of Corrections for use by the department’s Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit, or the military or naval forces of this state or of the United States for use in the discharge of their official duties, provided, however, that any sale to these entities be transacted by a person who is permitted pursuant to Section 32650 and licensed pursuant to Article 4 (commencing with Section 32700).

(b) The possession of machineguns by regular, salaried, full-time peace officer members of a police department, sheriff’s office, marshal’s office, district attorney’s office, the California Highway Patrol, the Department of Justice, or the Department of Corrections for use by the department’s Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit, when on duty and if the use is within the scope of their duties.

**Comment.** Section 32610 continues former Section 12201 without substantive change. See Section 16880 (“machinegun”).

### Article 2. Unlawful Acts Relating to Machineguns

#### § 32625. Unlawful acts relating to machineguns

32625. (a) Any person, firm, or corporation, who within this state possesses or knowingly transports a machinegun, except as authorized by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) Any person, firm, or corporation who within this state intentionally converts a firearm into a machinegun, or who sells, or offers for sale, or knowingly

manufactures a machinegun, except as authorized by this chapter, is punishable by imprisonment in the state prison for four, six, or eight years.

**Comment.** Section 32625 continues former Section 12220 without substantive change. See Sections 16520 (“firearm”), 16880 (“machinegun”).

### Article 3. Permits

#### § 32650. Permit for possession, manufacture, or transportation of machineguns

32650. The Department of Justice may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, upon a satisfactory showing that good cause exists for the issuance of the permit to the applicant. No permit shall be issued to a person who is under 18 years of age.

**Comment.** Section 32650 continues former Section 12230 without substantive change. See Section 16880 (“machinegun”).

#### § 32655. Application and renewal process

32655. (a) An application for a permit under this article shall satisfy all of the following conditions:

- (1) It shall be filed in writing.
  - (2) It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.
  - (3) It shall state the applicant’s name.
  - (4) It shall state the business in which the applicant is engaged.
  - (5) It shall state the applicant’s business address.
  - (6) It shall include a full description of the use to which the firearms are to be put.
- (b) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.
- (c) Each applicant for a permit shall pay at the time of filing the application a fee determined by the Department of Justice. The fee shall not exceed the application processing costs of the Department of Justice.
- (d) A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee, which shall not exceed the application processing costs of the Department of Justice.
- (e) After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department’s budget.

**Comment.** Section 32655 continues former Section 12231 without substantive change. See Section 16520 (“firearm”).

**§ 32660. Storage of machinegun permit**

32660. Every person, firm or corporation to whom a permit is issued under this article shall keep it on the person or at the place where the firearms are kept. The permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

**Comment.** Section 32660 continues former Section 12232 without substantive change. See Section 16520 (“firearm”).

**§ 32665. Revocation of machinegun permit**

32665. A permit issued in accordance with this chapter may be revoked by the issuing authority at any time, when it appears that the need for the firearms has ceased or that the holder of the permit has used the firearms for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

**Comment.** Section 32665 continues former Section 12233 without substantive change. See Section 16520 (“firearm”).

**§ 32670. Inspection conducted by Department of Justice**

32670. (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of machineguns.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

**Comment.** Section 32670 continues former Section 12234 without substantive change. See Section 16880 (“machinegun”).

Article 4. Licenses to Sell Machineguns

**§ 32700. License to sell machineguns**

32700. The Department of Justice may grant a license to permit the sale of machineguns at the place specified in the license, subject to all of the following conditions:

(a) The business shall be carried on only in the place designated in the license.

(b) The license or a certified copy of the license must be displayed on the premises in a place where it may easily be read.

(c) No machinegun shall be delivered to any person not authorized to receive the machinegun under the provisions of this chapter.

(d) A complete record must be kept of sales made under the authority of the license, showing the name and address of the purchaser, the descriptions and serial numbers of the weapons purchased, the number and date of issue of the purchaser’s permit, if any, and the signature of the purchaser or purchasing agent.

This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

**Comment.** Section 32700 continues former Section 12250(a)(1)-(4) without substantive change. In combination with Sections 32710 and 32720, Section 32700 also continues the introductory clause of former Section 12250(a) without substantive change.

See Section 16880 (“machinegun”).

#### **§ 32705. Application for license to sell machineguns**

32705. An application for a license under this article shall satisfy all of the following conditions:

(a) It shall be filed in writing.

(b) It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.

(c) It shall state the applicant’s name.

(d) It shall state the business in which the applicant is engaged.

(e) It shall state the applicant’s business address.

(f) It shall include a full description of the use to which the firearms are to be put.

**Comment.** Section 32705 continues the first paragraph of former Section 12250(b) without substantive change.

See Section 16520 (“firearm”).

#### **§ 32710. Form of applications and licenses**

32710. (a) Applications and licenses under this article shall be uniform throughout the state, on forms prescribed by the Department of Justice.

(b) A license under this article shall be effective for not more than one year from the date of issuance.

**Comment.** Subdivision (a) of Section 32710 continues the second paragraph of former Section 12250(b) without substantive change. Subdivision (a) also continues part of the introductory clause of former Section 12250(a) without substantive change.

Subdivision (b) continues part of the introductory clause of former Section 12250(a) without substantive change.

#### **§ 32715. Fees and renewal process**

32715. (a) Each applicant for a license under this article shall pay at the time of filing the application a fee determined by the Department of Justice. The fee shall not exceed the application processing costs of the Department of Justice.

(b) A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee, which shall not exceed the application processing costs of the Department of Justice.

(c) After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department’s budget.

**Comment.** Section 32715 continues the third paragraph of former Section 12250(b) without substantive change.

**§ 32720. Revocation of license to sell machineguns**

32720. Upon breach of any of the conditions stated in Section 32700, a license under this article shall be revoked.

**Comment.** Section 32720 continues part of the introductory clause of former Section 12250(a) without substantive change.

Article 5. Machinegun Constituting Nuisance

**§ 32750. Machinegun constituting public nuisance**

32750. (a) It shall be a public nuisance to possess any machinegun in violation of this chapter.

(b) The Attorney General, any district attorney, or any city attorney may bring an action before the superior court to enjoin the possession of any machinegun in violation of this chapter.

(c) Any machinegun found to be in violation of this chapter shall be surrendered to the Department of Justice. The department shall destroy the machinegun so as to render it unusable and unrepairable as a machinegun, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of the machinegun is necessary to serve the ends of justice.

**Comment.** Section 32750 continues former Section 12251 without substantive change. See Section 16880 (“machinegun”).

CHAPTER 7. MULTIBURST TRIGGER ACTIVATOR

**§ 32900. Prohibition on manufacture, import, sale, gift, loan, or possession of multiburst trigger activator**

32900. 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 multiburst trigger activator is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a multiburst trigger activator, Section 32900 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 16930 (“multiburst trigger activator”). See also Sections 17800 (distinct and separate offense), 32990 (multiburst trigger activator constituting nuisance).

**§ 32990. Multiburst trigger activator constituting nuisance**

32990. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any multiburst trigger activator is a nuisance and is subject to Section 18010.

**Comment.** With respect to a multiburst trigger activator, Section 32990 continues the first part of the first sentence of former Section 12029 without substantive change.  
See Section 16930 (“multiburst trigger activator”).

## CHAPTER 8. SHORT-BARRELED RIFLE OR SHORT-BARRELED SHOTGUN

### Article 1. Restrictions Relating to Short-Barreled Rifle or Short-Barreled Shotgun

#### **§ 33210. Prohibition on manufacture, import, sale, gift, loan, or possession of short-barreled rifle or short-barreled shotgun**

33210. Except as expressly provided in Sections 33215 to 33225, inclusive, and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, and solely in accordance with those provisions, no person may manufacture, import into this state, keep for sale, offer for sale, give, lend, or possess any short-barreled rifle or short-barreled shotgun. Nothing else in any provision listed in Section 16580 shall be construed as authorizing the manufacture, importation into the state, keeping for sale, offering for sale, or giving, lending, or possession of any short-barreled rifle or short-barreled shotgun.

**Comment.** Section 33210 continues former Section 12001.5 without substantive change.  
See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

#### **§ 33215. Penalty for unlawful manufacture, import, sale, gift, loan, or possession of short-barreled rifle or short-barreled shotgun**

33215. Except as provided in Sections 33220 and 33225 and 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 short-barreled rifle or short-barreled shotgun is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to short-barreled rifles and short-barreled shotguns, Section 33215 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), 33220 (exceptions relating to law enforcement), 33225 (exception for use authorized by permit).

See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”). See also Sections 17800 (distinct and separate offense), 33290 (short-barreled rifle or short-barreled shotgun constituting nuisance).

#### **§ 33220. Exceptions relating to law enforcement**

33220. Section 33215 does not apply to either of the following:

(a) The sale to, purchase by, or possession of short-barreled rifles or short-barreled shotguns by a police department, sheriff’s office, marshal’s office, the California Highway Patrol, the Department of Justice, the Department of

Corrections and Rehabilitation, or the military or naval forces of this state or of the United States, for use in the discharge of their official duties.

(b) The possession of short-barreled rifles and short-barreled shotguns by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections and Rehabilitation, when on duty and the use is authorized by the agency and is within the course and scope of their duties, and the officers have completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

**Comment.** Section 33220 continues former Section 12020(b)(1) without substantive change. See Sections 17170 ("short-barreled rifle"), 17180 ("short-barreled shotgun").

**§ 33225. Exception for use authorized by permit**

33225. Section 33215 does not apply to the manufacture, possession, transportation, or sale of a short-barreled rifle or short-barreled shotgun, when authorized by the Department of Justice pursuant to Article 2 (commencing with Section 33300) and not in violation of federal law.

**Comment.** Section 33225 continues former Section 12020(b)(2) without substantive change. See Sections 17170 ("short-barreled rifle"), 17180 ("short-barreled shotgun").

**§ 33290. Short-barreled rifle or short-barreled shotgun constituting nuisance**

33290. Except as provided in Sections 33220 and 33225 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any short-barreled rifle or short-barreled shotgun is a nuisance and is subject to Section 18010.

**Comment.** With respect to short-barreled rifles and short-barreled shotguns, Section 33290 continues the first part of the first sentence of former Section 12029 without substantive change. See Sections 17170 ("short-barreled rifle"), 17180 ("short-barreled shotgun").

Article 2. Permit for Short-Barreled Rifle  
or Short-Barreled Shotgun

**§ 33300. Permit for short-barreled rifle or short-barreled shotgun**

33300. (a) Upon a showing that good cause exists for issuance of a permit to the applicant, and if the Department of Justice finds that issuance of the permit does not endanger the public safety, the department may issue a permit for the manufacture, possession, transportation, or sale of short-barreled rifles or short-barreled shotguns. The permit shall be initially valid for a period of one year, and renewable annually thereafter. No permit shall be issued to a person who is under 18 years of age.

(b) Good cause, for the purposes of this section, shall be limited to only the following:

(1) The permit is sought for the manufacture, possession, or use with blank cartridges, of a short-barreled rifle or short-barreled shotgun, solely as a prop for a motion picture, television, or video production or entertainment event.

(2) The permit is sought for the manufacture of, exposing for sale, keeping for sale, sale of, importation or lending of short-barreled rifles or short-barreled shotguns to the entities listed in Section 33220 by persons who are licensed as dealers or manufacturers under the provisions of Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

**Comment.** Section 33300 continues former Section 12095 without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 33305. Application and renewal process**

33305. (a) An application for a permit under this article shall satisfy all of the following conditions:

(1) It shall be filed in writing.

(2) It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.

(3) It shall state the applicant’s name.

(4) It shall state the business in which the applicant is engaged.

(5) It shall state the applicant’s business address.

(6) It shall include a full description of the use to which the short-barreled rifles or short-barreled shotguns are to be put.

(b) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

(c) Each applicant for a permit shall pay at the time of filing the application a fee determined by the Department of Justice. The fee shall not exceed the application processing costs of the Department of Justice.

(d) A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee, which shall not exceed the application processing costs of the Department of Justice.

(e) After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department’s budget.

**Comment.** Section 33305 continues former Section 12096 without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 33310. Storage of permit and affixation of identifying number**

33310. (a) Every person, firm, or corporation to whom a permit is issued under this article shall keep it on the person or at the place where the short-barreled rifles or short-barreled shotguns are kept. The permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

(b) Every short-barreled rifle or short-barreled shotgun possessed pursuant to the provisions of this article shall bear a unique identifying number. If a weapon does

not bear a unique identifying number, the Department of Justice shall assign a number which shall be placed or stamped on that weapon.

**Comment.** Section 33310 continues former Section 12097 without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 33315. Revocation of permit**

33315. A permit issued in accordance with this article may be revoked by the issuing authority at any time, when it appears that the need for the short-barreled rifles or short-barreled shotguns has ceased or that the holder of the permit has used the short-barreled rifles or short-barreled shotguns for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

**Comment.** Section 33315 continues former Section 12098 without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

**§ 33320. Inspection conducted by Department of Justice**

33320. (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of short-barreled rifles and short-barreled shotguns.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

**Comment.** Section 33320 continues former Section 12099 without substantive change. See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

CHAPTER 9. SILENCERS

**§ 33410. Unlawful possession of silencer**

33410. Any person, firm, or corporation who within this state possesses a silencer is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed ten thousand dollars (\$10,000) or by both.

**Comment.** Section 33410 continues former Section 12520 without substantive change. See Section 17210 (“silencer”).

**§ 33415. Exceptions**

33415. Section 33410 shall not apply to, or affect, any of the following:

(a) The sale to, purchase by, or possession of silencers by agencies listed in Section 830.1, or the military or naval forces of this state or of the United States, for use in the discharge of their official duties.

(b) The possession of silencers by regular, salaried, full-time peace officers who are employed by an agency listed in Section 830.1, or by the military or naval forces of this state or of the United States, when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

(c) The manufacture, possession, transportation, or sale or other transfer of silencers to an entity described in subdivision (a) by dealers or manufacturers registered under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code and the regulations issued pursuant thereto.

**Comment.** Section 33415 continues former Section 12501 without substantive change. See Section 17210 (“silencer”).

## CHAPTER 10. ZIP GUNS

### **§ 33600. Prohibition on manufacture, import, sale, gift, loan, or possession of zip gun**

33600. 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 zip gun is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a zip gun, Section 33600 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 17360 (“zip gun”). See also Sections 17800 (distinct and separate offense), 33690 (zip gun constituting nuisance).

### **§ 33690. Zip gun constituting nuisance**

33690. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any zip gun is a nuisance and is subject to Section 18010.

**Comment.** With respect to a zip gun, Section 33690 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17360 (“zip gun”).

## DIVISION 11. FIREARM IN CUSTODY OF COURT OR LAW ENFORCEMENT AGENCY OR SIMILAR SITUATION

### CHAPTER 1. PROCEDURE FOR TAKING FIREARM INTO CUSTODY

#### **§ 33800. Receipt for firearm taken into custody by law enforcement officer**

33800. (a) When a firearm is taken into custody by a law enforcement officer, the officer shall issue the person who possessed the firearm a receipt describing the firearm, and listing any serial number or other identification on the firearm.

(b) The receipt shall indicate where the firearm may be recovered, any applicable time limit for recovery, and the date after which the owner or possessor may recover the firearm pursuant to Chapter 2 (commencing with Section 33850).

(c) Nothing in this section is intended to displace any existing law regarding the seizure or return of firearms.

**Comment.** Section 33800 continues former Section 12028.7 without substantive change.

For other provisions specifying procedures for taking a firearm into custody, see Sections 18000 (surrender of specified weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 29300 (firearm of any nature constitutes nuisance under specified circumstances). For rules relating to return or transfer of a firearm that is in the custody or control of a court or law enforcement agency, see Sections 33850-33895. For rules governing disposal of firearms that are unclaimed, abandoned, or subject to destruction, see Sections 34000-34010.

See Section 16520 (“firearm”).

## CHAPTER 2. RETURN OR TRANSFER OF FIREARM IN CUSTODY OR CONTROL OF COURT OR LAW ENFORCEMENT AGENCY

### **§ 33850. Application for return of firearm in custody or control of court or law enforcement agency, or sale or transfer of such firearm to dealer**

33850. (a) Any person who claims title to any firearm that is in the custody or control of a court or law enforcement agency and who wishes to have the firearm returned shall make application for a determination by the Department of Justice as to whether the applicant is eligible to possess a firearm. The application shall include the following:

(1) The applicant’s name, date and place of birth, gender, telephone number, and complete address.

(2) Whether the applicant is a United States citizen. If the applicant is not a United States citizen, the application shall also include the applicant’s country of citizenship and the applicant’s alien registration or I-94 number.

(3) If the firearm is a handgun, the firearm’s make, model, caliber, barrel length, handgun type, country of origin, and serial number.

(4) For residents of California, the applicant’s valid California driver’s license number or valid California identification card number issued by the Department of Motor Vehicles. For nonresidents of California, a copy of the applicant’s military identification with orders indicating that the individual is stationed in California, or a copy of the applicant’s valid driver’s license from the applicant’s state of residence, or a copy of the applicant’s state identification card from the applicant’s state of residence. Copies of the documents provided by non-California residents shall be notarized.

(5) The name of the court or law enforcement agency holding the firearm.

(6) The signature of the applicant and the date of signature.

(7) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be

provided for the application, including any notarized information pursuant to paragraph (4), shall be guilty of a misdemeanor.

(b) A person who owns a firearm that is in the custody of a court or law enforcement agency and who does not wish to obtain possession of the firearm, and the firearm is an otherwise legal firearm, and the person otherwise has right to title of the firearm, shall be entitled to sell or transfer title of the firearm to a licensed dealer.

(c) Any person furnishing a fictitious name or address, or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the application, including any notarized information pursuant to paragraph (4) of subdivision (a), is punishable as a misdemeanor.

**Comment.** Section 33850 continues former Section 12021.3(a) without substantive change.

The remainder of this chapter (Sections 33855-33895) provides further guidance regarding return or transfer of a firearm in the custody or control of a court or law enforcement agency. For other provisions on return or transfer of a firearm in custody, see Sections 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence). For rules governing disposal of firearms that are unclaimed, abandoned, or subject to destruction, see Sections 34000-34010.

A return or transfer of a firearm pursuant to this chapter is exempt from the requirement of using a dealer for a firearms transaction. See Sections 27930, 33895. A return or transfer of a firearm pursuant to this chapter is also exempt from the license requirement for firearms transactions. See Section 26590.

See Sections 16520 (“firearm”), 16640 (“handgun”).

#### **§ 33855. Requirements for return of firearm in custody of court or law enforcement agency**

33855. No law enforcement agency or court that has taken custody of any firearm may return the firearm to any individual unless the following requirements are satisfied:

(a) The individual presents to the agency or court notification of a determination by the department pursuant to Section 33865 that the person is eligible to possess firearms.

(b) If the agency or court has direct access to the Automated Firearms System, the agency or court has verified that the firearm is not listed as stolen pursuant to Section 11108, and that the firearm has been recorded in the Automated Firearms System in the name of the individual who seeks its return.

(c) If the firearm has been reported lost or stolen pursuant to Section 11108, a law enforcement agency shall notify the owner or person entitled to possession pursuant to Section 11108.5. However, that person shall provide proof of eligibility to possess a firearm pursuant to Section 33865.

(d) Nothing in this section shall prevent the local law enforcement agency from charging the rightful owner or person entitled to possession of the firearm the fees described in Section 33880. However, an individual who is applying for a background check to retrieve a firearm that came into the custody or control of a court or law enforcement agency pursuant to Section 33850 shall be exempt from the fees in Section 33860, provided that the court or agency determines the firearm

was reported stolen to a law enforcement agency prior to the date the firearm came into custody or control of the court or law enforcement agency, or within five business days of the firearm being stolen from its owner. The court or agency shall notify the Department of Justice of this fee exemption in a manner prescribed by the department.

**Comment.** Section 33855 continues former Section 12021.3(b) without substantive change.

A return or transfer of a firearm pursuant to this chapter is exempt from the requirement of using a dealer for a firearms transaction. See Sections 27930, 33895. A return or transfer of a firearm pursuant to this chapter is also exempt from the license requirement for firearms transactions. See Section 26590.

See Section 16520 (“firearm”).

#### **§ 33860. Fee for requesting return of firearm**

33860. (a) The Department of Justice shall establish a fee of twenty dollars (\$20) per request for return of a firearm, plus a three-dollar (\$3) charge for each additional handgun being processed as part of the request to return a firearm, to cover its costs for processing firearm clearance determinations submitted pursuant to this chapter.

(b) The fees collected pursuant to subdivision (a) shall be deposited into the Dealers’ Record of Sale Special Account.

(c) The department may increase the fee by using the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations to determine an annual rate of increase. Any fee increase shall be rounded to the nearest dollar.

**Comment.** Section 33860 continues former Section 12021.3(c) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”).

#### **§ 33865. Eligibility check**

33865. (a) When the Department of Justice receives a completed application pursuant to Section 33850 accompanied by the fee required pursuant to Section 33860, it shall conduct an eligibility check of the applicant to determine whether the applicant is eligible to possess a firearm.

(b) The department shall have 30 days from the date of receipt to complete the background check, unless the background check is delayed by circumstances beyond the control of the department. The applicant may contact the department to inquire about the reason for a delay.

(c) If the department determines that the applicant is eligible to possess the firearm, the department shall provide the applicant with written notification that includes the following:

(1) The identity of the applicant.

(2) A statement that the applicant is eligible to possess a firearm.

(3) If the firearm is a handgun, a description of the handgun by make, model, and serial number.

(d) If the firearm is a handgun, the department shall enter a record of the handgun into the Automated Firearms System.

(e) If the department denies the application, and the firearm is an otherwise legal firearm, the department shall notify the applicant of the denial and provide a form for the applicant to use to sell or transfer the firearm to a licensed dealer. The applicant may contact the department to inquire about the reason for the denial.

**Comment.** Subdivision (a) of Section 33865 continues former Section 12021.3(d) without substantive change.

Subdivision (b) continues former Section 12021.3(e)(3) without substantive change.

Subdivision (c) continues former Section 12021.3(e)(1) without substantive change.

Subdivision (d) continues former Section 12021.3(e)(2) without substantive change.

Subdivision (e) continues former Section 12021.3(f) without substantive change.

A return or transfer of a firearm pursuant to this chapter is exempt from the requirement of using a dealer for a firearms transaction. See Sections 27930, 33895. A return or transfer of a firearm pursuant to this chapter is also exempt from the license requirement for firearms transactions. See Section 26590.

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### **§ 33870. Lost or stolen firearm, or firearm belonging to person prohibited from possessing any firearm**

33870. (a) If a law enforcement agency determines that the applicant is the legal owner of any firearm deposited with the agency, that the applicant is prohibited from possessing any firearm, and that the firearm is an otherwise legal firearm, the applicant shall be entitled to sell or transfer the firearm to a licensed dealer.

(b) If the firearm has been lost or stolen, the firearm shall be restored to the lawful owner pursuant to Section 11108.5 upon the owner’s identification of the firearm, proof of ownership, and proof of eligibility to possess a firearm pursuant to Section 33865.

(c) Nothing in this section shall prevent the local law enforcement agency from charging the rightful owner of the firearm the fees described in Section 33880.

**Comment.** Subdivision (a) of Section 33870 continues former Section 12021.3(i)(1) without substantive change.

Subdivision (b) continues the first paragraph of former Section 12021.3(i)(2) without substantive change.

Subdivision (c) continues the second paragraph of former Section 12021.3(i)(2) without substantive change.

A return or transfer of a firearm pursuant to this chapter is exempt from the requirement of using a dealer for a firearms transaction. See Sections 27930, 33895. A return or transfer of a firearm pursuant to this chapter is also exempt from the license requirement for firearms transactions. See Section 26590.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

#### **§ 33875. Unclaimed firearm**

33875. Notwithstanding any other provision of law, no law enforcement agency or court shall be required to retain a firearm for more than 180 days after the owner of the firearm has been notified by the court or law enforcement agency that

the firearm has been made available for return. An unclaimed firearm may be disposed of after the 180-day period has expired.

**Comment.** Section 33875 continues former Section 12021.3(g) without substantive change. See Section 16520 (“firearm”).

**§ 33880. Charge for administrative costs relating to seizure, impounding, storage, or release of firearms**

33880. (a) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm.

(b) The fee under subdivision (a) shall not exceed the actual costs incurred for the expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed firearms dealer or to the owner.

(c) The administrative costs described in subdivisions (a) and (b) may be waived by the local or state agency upon verifiable proof that the firearm was reported stolen at the time the firearm came into the custody or control of the law enforcement agency.

(d) The following apply to any charges imposed for administrative costs pursuant to this section:

(1) The charges shall only be imposed on the person claiming title to the firearm.

(2) Any charges shall be collected by the local or state authority only from the person claiming title to the firearm.

(3) The charges shall be in addition to any other charges authorized or imposed pursuant to this code.

(4) No charge may be imposed for any hearing or appeal relating to the removal, impound, storage, or release of a firearm, unless that hearing or appeal was requested in writing by the legal owner of the firearm. In addition, the charge may be imposed only upon the person requesting that hearing or appeal.

(e) No costs for any hearing or appeal related to the release of a firearm shall be charged to the legal owner who redeems the firearm, unless the legal owner voluntarily requests the post-storage hearing or appeal. No city, county, city and county, or state agency shall require a legal owner to request a post-storage hearing as a requirement for release of the firearm to the legal owner.

**Comment.** Section 33880 continues former Section 12021.3(j) without substantive change. See Section 16520 (“firearm”).

**§ 33885. Attorney’s fees**

33885. In a proceeding for the return of a firearm seized and not returned pursuant to this chapter, where the defendant or cross-defendant is a law enforcement agency, the court shall award reasonable attorney’s fees to the prevailing party.

**Comment.** Section 33885 continues former Section 12021.3(k) without substantive change.

See Section 16520 (“firearm”).

**§ 33890. Retention of personal information by Department of Justice**

33890. Notwithstanding Section 11106, the Department of Justice may retain personal information about an applicant in connection with a claim under this chapter for a firearm that is not a handgun, to allow for law enforcement confirmation of compliance with this chapter. The information retained may include personal identifying information regarding the individual applying for the clearance, but may not include information that identifies any particular firearm that is not a handgun.

**Comment.** Section 33890 continues former Section 12021.3(h) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 33895. Exception to requirement of using dealer for firearms transaction**

33895. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to this chapter.

**Comment.** Section 33895 continues former Section 12021.3(i)(4) without substantive change. See Section 16520 (“firearm”).

CHAPTER 3. FIREARMS THAT ARE UNCLAIMED, ABANDONED, OR  
SUBJECT TO DESTRUCTION

**§ 34000. Unclaimed firearm or firearm no longer needed as exhibit in criminal case**

34000. (a) Notwithstanding any provision of law or of any local ordinance to the contrary, when any firearm is in the possession of any officer of the state, or of a county, city, or city and county, or of any campus of the University of California or the California State University, and the firearm is an exhibit filed in any criminal action or proceeding which is no longer needed or is unclaimed or abandoned property, which has been in the possession of the officer for at least 180 days, the firearm shall be sold, or destroyed, as provided for in Sections 18000 and 18005.

(b) This section does not apply to any firearm in the possession of the Department of Fish and Game, or which was used in the violation of any provision in the Fish and Game Code, or any regulation under that code.

**Comment.** Section 34000 continues former Section 12032 without substantive change.

For guidance on whether a firearm can be considered unclaimed, see Section 33875 (unclaimed firearm). For a notification requirement relating to destruction of a firearm pursuant to Sections 18000 and 18005, see Section 34010 (notification of Department of Justice).

See Section 16520 (“firearm”).

**§ 34005. Permissible uses of firearm in custody, otherwise subject to destruction**

34005. (a)(1) An officer having custody of any firearm that may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, including, but not limited to, the

California National Guard military museum and resource center, may, upon the authority of the legislative body of the city, city and county, or county by which the officer is employed and the approval of the Adjutant General, deliver the firearm to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government, in lieu of destruction as required by any of the provisions listed in Section 16580.

(2) The officer delivering a firearm pursuant to this subdivision shall take a receipt for it, which contains a complete description of the firearm, and shall keep the receipt on file in his or her office as a public record.

(b) Any law enforcement agency that has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by any of the provisions listed in Section 16580, may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency. Alternatively, upon approval of a court, the agency may do either of the following:

(1) Release the weapons to any other law enforcement agency for use in carrying out the official duties of that agency.

(2) Turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office, any weapons that may be useful in carrying out the official duties of the respective agencies.

(c)(1) Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section, shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties.

(2) Firearms or weaponry donated to the California National Guard military museum and resource center may be disposed of pursuant to Section 179 of the Military and Veterans Code.

(d)(1) Any law enforcement agency that has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by any of the provisions listed in Section 16580, may, in lieu of destroying the firearms, obtain an order from the superior court directing the release of the firearms to the sheriff.

(2) The sheriff shall enter those weapons into the Automated Firearms System (AFS), via the California Law Enforcement Telecommunications System, with a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the academy receiving the weapon entered into the AFS miscellaneous field.

(3) The sheriff shall then release the firearms to the basic training academy certified by the Commission on Peace Officer Standards and Training, so that the firearms may be used for instructional purposes in the certified courses. All firearms released to an academy shall be under the care, custody, and control of the particular academy.

(4) Any firearm, or part of any firearm, which is not destroyed, and is used for the purposes authorized by this section, shall be returned to the law enforcement agency that had original custody of the firearm when it is no longer needed by the basic training academy, or when the basic training academy is no longer certified by the commission.

(5) When those firearms are returned, the law enforcement agency to which the firearms are returned, shall on the date of the return, enter into the Automated Firearms System (AFS), via the California Law Enforcement Telecommunications System, a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the entity returning the firearm.

**Comment.** Subdivision (a) of Section 34005 continues former Section 12030(a) without substantive change.

Subdivision (b) continues former Section 12030(b) without substantive change.

Subdivision (c) continues former Section 12030(c) without substantive change.

Subdivision (d) continues the first, second, third, and fifth sentences of the first paragraph of former Section 12030(d) without substantive change. Subdivision (d) also continues the second paragraph of former Section 12030(d) without substantive change.

For a notice requirement relating to retention of a firearm pursuant to this section, see Section 34010 (notification of Department of Justice).

For rules relating to return or transfer of a firearm that is in the custody or control of a court or law enforcement agency, see Sections 33850-33895. For other provisions on disposal of a firearm in custody, see Sections 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 29300 (firearm of any nature constitutes nuisance under specified circumstances), 34000 (unclaimed firearm or firearm no longer needed as exhibit in criminal case).

See Section 16520 (“firearm”).

#### **§ 34010. Notification of Department of Justice**

34010. Any law enforcement agency that retains custody of any firearm pursuant to Section 34005, or that destroys a firearm pursuant to Sections 18000 and 18005, shall notify the Department of Justice of the retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

**Comment.** Section 34010 continues former Section 12030(e) without substantive change.

See Section 16520 (“firearm”).

DIVISION 12. MISCELLANEOUS DUTIES OF THE  
DEPARTMENT OF JUSTICE

CHAPTER 1. MISCELLANEOUS REPORTS AND PUBLICATIONS

**§ 34200. Annual report by Attorney General on firearm use in crimes**

34200. The Attorney General shall provide the Legislature on or before April 15 of each year, commencing in 1998, a written report on the specific types of firearms used in the commission of crimes based upon information obtained from state and local crime laboratories. The report shall include all of the following information regarding crimes in which firearms were used:

(a) A description of the relative occurrence of firearms most frequently used in the commission of violent crimes, distinguishing whether the firearms used were handguns, rifles, shotguns, assault weapons, or other related types of weapons.

(b) A description of specific types of firearms that are used in homicides or street gang and drug trafficking crimes.

(c) The frequency with which stolen firearms were used in the commission of the crimes.

(d) The frequency with which fully automatic firearms were used in the commission of the crimes.

(e) Any trends of importance such as those involving specialized ammunition or firearms modifications, such as conversion to a fully automatic weapon, removal of serial number, shortening of barrel, or use of a suppressor.

**Comment.** Section 34200 continues former Section 12039 without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”), 17090 (“rifle”), 17190 (“shotgun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

**§ 34205. Pamphlet summarizing California firearms laws**

34205. (a) The Department of Justice shall prepare a pamphlet that summarizes California firearms laws as they pertain to persons other than law enforcement officers or members of the armed services.

(b) The pamphlet shall include the following matters:

(1) Lawful possession.

(2) Licensing procedures.

(3) Transportation and use of firearms.

(4) Acquisition of hunting licenses.

(5) The safe handling and use of firearms.

(6) Various methods of safe storage and child proofing of firearms.

(7) The availability of firearms safety programs and devices.

(8) The responsibilities of firearms ownership.

(9) The operation of various types of firearms.

(10) The lawful use of deadly force.

(c) The department shall offer copies of the pamphlet at actual cost to firearms dealers licensed pursuant to Sections 26700 to 26915, inclusive, who shall have copies of the most current version available for sale to retail purchasers or transferees of firearms. The cost of the pamphlet, if any, may be added to the sale price of the firearm. Other interested parties may purchase copies directly from the Department of General Services.

(d) The pamphlet shall declare that it is merely intended to provide a general summary of laws applicable to firearms and is not designed to provide individual guidance for specific areas. Individuals having specific questions shall be directed to contact their local law enforcement agency or private counsel.

(e) The Department of Justice or any other public entity shall be immune from any liability arising from the drafting, publication, or dissemination of the pamphlet or any reliance upon it. All receipts from the sale of these pamphlets shall be deposited as reimbursements to the support appropriation for the Department of Justice.

**Comment.** Section 34205 continues former Section 12080 without substantive change.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

## CHAPTER 2. BALLISTICS IDENTIFICATION SYSTEM

### § 34350. Study of ballistics identification systems

34350. (a) The Attorney General shall conduct a study to evaluate ballistics identification systems to determine the feasibility and potential benefits to law enforcement of utilizing a statewide ballistics identification system capable of maintaining a database of ballistic images and information from test fired and sold firearms. The study shall include an evaluation of ballistics identification systems currently used by state and federal law enforcement agencies and the firearms industry. The Attorney General shall consult with law enforcement agencies, firearms industry representatives, private technology providers, and other appropriate parties in conducting the study.

(b) In evaluating ballistics identification systems to determine the feasibility of utilizing a statewide system as required pursuant to subdivision (a), the Attorney General shall consider, at a minimum, the following:

(1) The development of methods by which firearm manufacturers, importers, and dealers may potentially capture ballistic images from firearms prior to sale in California and forward that information to the Attorney General.

(2) The development of methods by which the Attorney General will receive, store, and make available to law enforcement ballistic images submitted by firearm manufacturers, importers, and dealers prior to sale in California.

(3) The potential financial costs to the Attorney General of implementing and operating a statewide ballistics identification system, including the process for receipt of information from firearm manufacturers, importers, and dealers.

(4) The capability of a ballistics identification system maintaining a database of ballistic images and information from test fired firearms for all firearms sold in California.

(5) The compatibility of a ballistics identification system with ballistics identification systems that are currently used by law enforcement agencies in California.

(6) A method to ensure that state and local law enforcement agencies can forward ballistic identification information to the Attorney General for inclusion in a statewide ballistics identification system.

(7) The feasibility and potential benefits to law enforcement of requiring firearm manufacturers, importers, and dealers to provide the Attorney General with ballistic images from any, or a selected number of, test fired firearms prior to the sale of those firearms in California.

(c) The Attorney General shall submit a report to the Legislature with the results of the study not later than June 1, 2001. In the event the report includes a determination that a ballistics identification system and database is feasible and would benefit law enforcement, the report shall also recommend a strategy for implementation.

**Comment.** Section 34350 continues former Section 12072.5(b)-(d) without substantive change.

For other provisions relating to identification of firearms, see Sections 23900-23925 (obliteration of identification marks), 31910(b)(7) (identification of serial number of pistol or other firearm from spent cartridge casings).

See Sections 16230 (“ballistics identification system”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

**§ 34355. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government**

34355. (a) Section 34350 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to

AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 34355 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12072.5.

For other exceptions relating to law enforcement, see Sections 34360 (exception for loan of firearm to peace officer employee for use in performing official duties), 34365 (exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code), 34370 (exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm).

See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 34360. Exception for loan of firearm to peace officer employee for use in performing official duties**

34360. Section 34350 does not apply to the loan of a firearm if all of the following conditions are satisfied:

(a) The loan is made by an authorized law enforcement representative of a city, county, or city and county, or of the state or federal government.

(b) The loan is made to a peace officer employed by that agency and authorized to carry a firearm.

(c) The loan is made for the carrying and use of that firearm by that peace officer in the course and scope of the officer’s duties.

**Comment.** Section 34360 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12072.5.

For other exceptions relating to law enforcement, see Sections 34355 (exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government), 34365 (exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code), 34370 (exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm).

See Section 16520 (“firearm”).

**§ 34365. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code**

34365. (a) Section 34350 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 34365 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12072.5.

For other exceptions relating to law enforcement, see Sections 34355 (exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government), 34360 (exception for loan of firearm to peace officer employee for use in performing official duties), 34370 (exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm).

See Sections 16520 (“firearm”), 16640 (“handgun”).

**§ 34370. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm**

34370. (a) Section 34350 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

**Comment.** Section 34370 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12072.5.

For other exceptions relating to law enforcement, see Sections 34355 (exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government), 34360 (exception for loan of firearm to peace officer employee for use in performing official duties), 34365 (exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code).

See Sections 16520 (“firearm”), 16640 (“handgun”).

## UNCODIFIED

### **Law Revision Commission studies**

SEC. 7. The California Law Revision Commission is authorized to study and to make recommendations to the Legislature and the Governor regarding the minor clean-up issues identified in the report prepared by that commission pursuant to Resolution Chapter 128 of the Statutes of 2006.

### **Operative date**

SEC. 8. Section 7 of this act becomes operative on January 1, 2013. The remainder of this act becomes operative on January 1, 2014.

## DISPOSITION OF EXISTING LAW

**Note.** This table shows the proposed disposition of Penal Code Section 653k and Title 2 of Part 4 of the Penal Code (Penal Code Sections 12000-12809), as the law existed on January 1, 2009. Unless otherwise indicated, all statutory references are to the Penal Code.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
653k, 1st ¶	21510
653k, 2d ¶	17235
653k, 3d ¶	16965
12000-12101 (entire chapter)	See Section 16580
12000	23500
12001(a)(1)	16530(a)
12001(a)(2)	16640(a)
12001(b)	12001, 16520(a)
12001(c)	16520(b)
12001(d)	16520(c)
12001(e) (all except def. of “antique firearm”)	16520(d)
12001(e) (def. of “antique firearm”)	16170(b)
12001(f) (re “firearm capable of being concealed upon the person,” “pistol,” & “revolver”)	16530(b)
12001(f) (re “handgun”)	16640(b)
12001(g)	16250
12001(h)	17340
12001(i)	16190
12001(j)	16840(a)
12001(k)	23510
12001(l)	17800
12001(m)	23520
12001(n)	17000(a)
12001(o)	17000(b)
12001(p)	16240
12001(q)	16670
12001(r)	16630
12001(s)	16410
12001.1 (entirety)	17920, 20810-20820 (entire article)*
12001.1(a), 1st sent.	20810(a)
12001.1(a), 2d sent.	17290
12001.1(b)	20810(b)
12001.1(c)	20815
12001.1(d)	20820

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12001.5 . . . . .	33210
12001.6 . . . . .	23515
12002(a) (re equip, authorized for enforcement of law or ordinance in city or county) . . . . .	17515
12002(a) (other aspects) . . . . .	22295(a)
12002(b)-(g) . . . . .	22295(b)-(g)
12003 . . . . .	12003, 23505
12010 . . . . .	30000
12011 . . . . .	30005
12012 . . . . .	30010
12020 (entirety) . . . . .	See discussion at pp. 13-15; see also Section 16590
12020(a)(1) (re air gauge knife) . . . . .	20310
12020(a)(1) (re ballistic knife) . . . . .	21110
12020(a)(1) (re belt buckle knife) . . . . .	20410
12020(a)(1) (re billy, blackjack, sandbag, sandclub, sap, or slungshot) . . . . .	22210
12020(a)(1) (re bullet with explosive agent) . . . . .	30210
12020(a)(1) (re camouflaging firearm container) . . . . .	24310
12020(a)(1) (re cane gun) . . . . .	24410
12020(a)(1) (re cane sword) . . . . .	20510
12020(a)(1) (re firearm not immediately recognizable as firearm) . . . . .	24510
12020(a)(1) (re flechette dart) . . . . .	30210
12020(a)(1) (re leaded cane) . . . . .	22210
12020(a)(1) (re lipstick case knife) . . . . .	20610
12020(a)(1) (re metal knuckles) . . . . .	21810
12020(a)(1) (re certain metal handgrenades) . . . . .	19200(a)
12020(a)(1) (re multiburst trigger activator) . . . . .	32900
12020(a)(1) (re nunchaku) . . . . .	22010
12020(a)(1) (re shobi-zue) . . . . .	20710
12020(a)(1) (re short-barreled rifle or short-barreled shotgun) . . . . .	33215
12020(a)(1) (re shuriken) . . . . .	22410
12020(a)(1) (re unconventional pistol) . . . . .	31500
12020(a)(1) (re undetectable firearm) . . . . .	24610
12020(a)(1) (re wallet gun) . . . . .	24710
12020(a)(1) (re writing pen knife) . . . . .	20910
12020(a)(1) (re zip gun) . . . . .	33600
12020(a)(2) . . . . .	32310
12020(a)(3) . . . . .	19100
12020(a)(4), 1st ¶ . . . . .	21310
12020(a)(4), 2d ¶, 1st sent. . . . .	19200(b)
12020(a)(4), 2d ¶, 2d sent. . . . .	16460(b)
12020(b)(1) . . . . .	33220
12020(b)(2) . . . . .	33225

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12020(b)(3) . . . . .	22015(a)
12020(b)(4) . . . . .	22015(b)
12020(b)(5), 1st sent. . . . .	17700
12020(b)(5), 2d sent. . . . .	16170(c)
12020(b)(6) . . . . .	30215
12020(b)(7) . . . . .	17705
12020(b)(8) . . . . .	17710
12020(b)(9) . . . . .	17715
12020(b)(10) . . . . .	17720
12020(b)(11) . . . . .	17725
12020(b)(12) . . . . .	17730(a)-(b)
12020(b)(13) . . . . .	17730(c)
12020(b)(14) . . . . .	22215
12020(b)(15) . . . . .	19205
12020(b)(16) . . . . .	17735
12020(b)(17) . . . . .	17740
12020(b)(18) . . . . .	17745
12020(b)(19) . . . . .	32400
12020(b)(20) . . . . .	32405
12020(b)(21) . . . . .	32410
12020(b)(22) . . . . .	32415
12020(b)(23) . . . . .	32420
12020(b)(24) . . . . .	32425(a)
12020(b)(25) . . . . .	32425(b)
12020(b)(26) . . . . .	32430
12020(b)(27) . . . . .	32435(a)
12020(b)(28) . . . . .	32435(b)
12020(b)(29) . . . . .	32435(c)
12020(b)(30) . . . . .	32440
12020(b)(31) . . . . .	32445
12020(b)(32) . . . . .	32450
12020(c)(1) . . . . .	17180
12020(c)(2) . . . . .	17170
12020(c)(3) . . . . .	16940
12020(c)(4) . . . . .	17330
12020(c)(5) . . . . .	16330
12020(c)(6) . . . . .	16570
12020(c)(7) . . . . .	16920
12020(c)(8) . . . . .	16220
12020(c)(9) . . . . .	16320
12020(c)(10) . . . . .	17360

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12020(c)(11) . . . . .	17200
12020(c)(12) . . . . .	17270
12020(c)(13) . . . . .	16260
12020(c)(14) . . . . .	16830
12020(c)(15) . . . . .	16340
12020(c)(16) . . . . .	17160
12020(c)(17) . . . . .	16760
12020(c)(18) . . . . .	16140
12020(c)(19) . . . . .	17350
12020(c)(20) . . . . .	17090
12020(c)(21) . . . . .	17190
12020(c)(22)(A)-(B) . . . . .	17280
12020(c)(22)(C) (def. of “firearm”) . . . . .	16520(f)
12020(c)(22)(C) (def. of “major component”) . . . . .	17280(b)
12020(c)(22)(C), 1st ¶ (def. of “Security Exemplar”) . . . . .	17125
12020(c)(22)(C), 2d ¶ . . . . .	24680
12020(c)(23) . . . . .	16930
12020(c)(24) . . . . .	16470
12020(c)(25) . . . . .	16740
12020(d) . . . . .	20200
12020.1, 1st sent. . . . .	21710
12020.1, 2d & 3d sent. . . . .	16680
12020.3 . . . . .	23800
12020.5 . . . . .	17505
12021 (entirety) . . . . .	29800-29875 (entire chapter)*
12021(a) . . . . .	29800(a)
12021(b) . . . . .	29800(b)
12021(c)(1) . . . . .	29805
12021(c)(2) . . . . .	29855
12021(c)(3) . . . . .	29860
12021(c)(4) . . . . .	29865
12021(d)(1), 1st sent. . . . .	29815(a)
12021(d)(1), 2d & 3d sent. . . . .	29815(b)
12021(d)(2) . . . . .	29810
12021(e), 1st sent. . . . .	29820(a)-(b)
12021(e), 2d sent. . . . .	29820(c)
12021(e), 3d & 4th sent. . . . .	29820(d)
12021(f) . . . . .	29800(c)
12021(g) (entirety) . . . . .	29825
12021(g)(1) . . . . .	29825(a)
12021(g)(2) . . . . .	29825(b)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12021(g)(3) . . . . .	29825(d)
12021(g)(4) . . . . .	29825(c)
12021(h) . . . . .	29850
12021(i) . . . . .	29875
12021.1 (entirety) . . . . .	29900-29905 (entire chapter)*
12021.1(a) . . . . .	29900(a)
12021.1(b) . . . . .	29905
12021.1(c) . . . . .	29900(b)
12021.1(d) . . . . .	29900(c)
12021.3 (entirety) . . . . .	26590, 33850-33895 (entire chapter)*
12021.3(a) . . . . .	33850
12021.3(b) . . . . .	33855
12021.3(c) . . . . .	33860
12021.3(d) . . . . .	33865(a)
12021.3(e)(1) . . . . .	33865(c)
12021.3(e)(2) . . . . .	33865(d)
12021.3(e)(3) . . . . .	33865(b)
12021.3(f) . . . . .	33865(e)
12021.3(g) . . . . .	33875
12021.3(h) . . . . .	33890
12021.3(i)(1) . . . . .	33870(a)
12021.3(i)(2), 1st ¶ . . . . .	33870(b)
12021.3(i)(2), 2d ¶ . . . . .	33870(c)
12021.3(i)(3) . . . . .	26590
12021.3(i)(4) . . . . .	33895
12021.3(j) . . . . .	33880
12021.3(k) . . . . .	33885
12021.5-12022.95 (sentence enhancements) . . . . .	left in place
12023 . . . . .	25800
12024 . . . . .	17500
12025 (entirety) . . . . .	16750(a), 25400; 12025 (h) is not continued*
12025(a) . . . . .	25400(a)
12025(b) . . . . .	25400(c)
12025(c) . . . . .	25400(f)
12025(d) . . . . .	25400(d)
12025(e) . . . . .	25400(e)
12025(f) . . . . .	25400(b)
12025(g) . . . . .	16750(a)
12025(h) . . . . .	Not continued (repealed 1/1/05)
12025.5 . . . . .	25600
12026 . . . . .	25605

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12026.1 (entirety) . . . . .	16850, 25610*
12026.1(a), intro. cl. . . . .	25610(a)
12026.1(a)(1), except last phrase . . . . .	25610(a)
12026.1(a)(1), last phrase . . . . .	16850
12026.1(a)(2) . . . . .	25610(a)
12026.1(b) . . . . .	25610(b)
12026.1(c) . . . . .	16850
12026.2 (entirety) . . . . .	16850, 25505-25595 (entire article)*
12026.2(a)(1) . . . . .	25510(a)
12026.2(a)(2) . . . . .	25515
12026.2(a)(3) . . . . .	25520
12026.2(a)(4) . . . . .	25525(a)
12026.2(a)(5) . . . . .	25530
12026.2(a)(6) . . . . .	25525(b)
12026.2(a)(7) . . . . .	25535(a)
12026.2(a)(8) . . . . .	25510(b)
12026.2(a)(9) . . . . .	25540
12026.2(a)(10) . . . . .	25545
12026.2(a)(11) . . . . .	25550
12026.2(a)(12) . . . . .	25555
12026.2(a)(13) . . . . .	25560
12026.2(a)(14) . . . . .	25535(b)
12026.2(a)(15) . . . . .	25565
12026.2(a)(16) . . . . .	25570(a)
12026.2(a)(17) . . . . .	25575
12026.2(a)(18) . . . . .	25570(b)
12026.2(a)(19) . . . . .	25580
12026.2(a)(20) . . . . .	25585
12026.2(b) . . . . .	25505
12026.2(c) . . . . .	25595
12026.2(d) . . . . .	16850
12027 (entirety). . . . .	16360, 16690, 25450-25475 (entire article), 25615-25655 (inclusive)*
12027(a) (entirety). . . . .	16360, 16690, 25450-25475 (entire article)*
12027(a)(1)(A), 1st sent. . . . .	25450
12027(a)(1)(A), 2d sent. . . . .	25455(a)
12027(a)(1)(A), 3d sent. . . . .	25455(b)
12027(a)(1)(A), 4th & 5th sent. . . . .	16690
12027(a)(1)(B) . . . . .	25455(c)
12027(a)(1)(C) . . . . .	25460(a)-(b)
12027(a)(1)(D) . . . . .	25460(c)
12027(a)(1)(E) . . . . .	16360

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12027(a)(2), 1st sent. . . . .	25465
12027(a)(2), 2d sent. . . . .	25455(d)
12027(a)(2), 3d sent. . . . .	25470(a)
12027(a)(2), 4th sent. . . . .	25470(b)
12027(a)(3) . . . . .	25475
12027(b) . . . . .	25615
12027(c) . . . . .	25620
12027(d) . . . . .	25625
12027(e) . . . . .	25630
12027(f) . . . . .	25635
12027(g) . . . . .	25640
12027(h) . . . . .	25645
12027(i) . . . . .	25650
12027(j) . . . . .	25655
12027.1 (entirety) . . . . .	26300-26325 (entire chapter)*
12027.1(a)(1)(A)(i) . . . . .	26300(b)
12027.1(a)(1)(A)(ii) . . . . .	26300(a)
12027.1(a)(1)(A)(iii) . . . . .	26300(c)
12027.1(a)(1)(B) . . . . .	26305(c)
12027.1(a)(2) . . . . .	26305(b)
12027.1(b)(1) . . . . .	26305(c)
12027.1(b)(2) . . . . .	26315
12027.1(b)(3) . . . . .	26310
12027.1(c) . . . . .	26325
12027.1(d) . . . . .	26320
12027.1(e) . . . . .	26305(a)
12028 (entirety) . . . . .	See discussion at p. 15
12028(a) (re concealed explosive other than fixed ammunition) . . . . .	19190
12028(a) (re concealed dirk or dagger) . . . . .	21390
12028(a) (re unlawful concealed carrying of handgun) . . . . .	25700(a)
12028(a) (re switchblade knife) . . . . .	21590
12028(b)(1), 1st sent. . . . .	29300(a)
12028(b)(1), 2d sent. . . . .	18000(c), 29300(b)
12028(b)(2) . . . . .	29300(c)
12028(c), 1st sent. . . . .	18000(a)
12028(c), 2d sent. . . . .	18000(b)
12028(c), 3d sent. . . . .	18005(a)
12028(c), 4th sent. . . . .	18005(b)
12028(d) . . . . .	18005(c)
12028(e) (re unlawful concealed carrying of handgun as nuisance) . . . . .	25700(b)
12028(e) (re firearm of any nature constituting nuisance in specified circumstances) . . . . .	29300(d)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12028(f) . . . . .	18005(d)
12028.5 (entirety) . . . . .	16120, 16430, 16490, 18250-18500 (entire division)*
12028.5(a)(1) . . . . .	16120
12028.5(a)(2) . . . . .	16490
12028.5(a)(3) . . . . .	16430
12028.5(b), 1st sent. . . . .	18250
12028.5(b), 2d sent. . . . .	18255(a)
12028.5(b), 3d sent. . . . .	18255(b)
12028.5(b), 4th sent. . . . .	18255(c)
12028.5(b), 5th sent. . . . .	18265(a)
12028.5(b), 6th sent. . . . .	18265(b)
12028.5(b), 7th sent. . . . .	18265(c)
12028.5(c) . . . . .	18260
12028.5(d) . . . . .	18270
12028.5(e) . . . . .	18275
12028.5(f) . . . . .	18400
12028.5(g) . . . . .	18405
12028.5(h) . . . . .	18410
12028.5(i) . . . . .	18415
12028.5(j) . . . . .	18420
12028.5(k) . . . . .	18500
12028.7 . . . . .	33800
12029 (entirety) . . . . .	See discussion at p. 15
12029, 1st sent., 1st-2d cl. (re air gauge knife, through catchall provision) . . . . .	20390
12029, 1st sent., 1st-2d cl. (re ballistic knife, through catchall provision) . . . . .	21190
12029, 1st sent., 1st-2d cl. (re belt buckle knife, through catchall provision) . . . . .	20490
12029, 1st sent., 1st-2d cl. (re billy, blackjack, sandbag, sandclub, and slungshot) . . . . .	22290
12029, 1st sent., 1st-2d cl. (re bullet with explosive agent, through catchall provision) . . . . .	30290
12029, 1st sent., 1st-2d cl. (re camouflaging firearm container, through catchall) . . . . .	24390
12029, 1st sent., 1st-2d cl. (re cane gun, through catchall provision) . . . . .	24490
12029, 1st sent., 1st-2d cl. (re cane sword, through catchall provision) . . . . .	20590
12029, 1st sent., 1st-2d cl. (re firearm not immediately recognizable as such, through catchall provision) . . . . .	24590
12029, 1st sent., 1st-2d cl. (re flechette dart ammunition, through catchall provision) . . . . .	30290
12029, 1st sent., 1st-2d cl. (re large capacity magazine, through catchall provision) . . . . .	32390
12029, 1st sent., 1st-2d cl. (re leaded cane, through catchall provision) . . . . .	22290
12029, 1st sent., 1st-2d cl. (re lipstick case knife, through catchall provision) . . . . .	20690
12029, 1st sent., 1st-2d cl. (re metal knuckles) . . . . .	21890
12029, 1st sent., 1st-2d cl. (re certain metal handgrenades, through catchall provision) . . . . .	19290
12029, 1st sent., 1st-2d cl. (re multiburst trigger activator, through catchall provision) . . . . .	32990
12029, 1st sent., 1st-2d cl. (re nunchaku) . . . . .	22090

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12029, 1st sent., 1st-2d cl. (re sap, through catchall provision) . . . . .	22290
12029, 1st sent., 1st-2d cl. (re shobi-zue, through catchall provision) . . . . .	20790
12029, 1st sent., 1st-2d cl. (re short-barreled rifle or short-barreled shotgun) . . . . .	33290
12029, 1st sent., 1st-2d cl. (re shuriken) . . . . .	22490
12029, 1st sent., 1st-2d cl. (re unconventional pistol, through catchall provision) . . . . .	31590
12029, 1st sent., 1st-2d cl. (re undetectable firearm, through catchall provision) . . . . .	24690
12029, 1st sent., 1st-2d cl. (re wallet gun, through catchall provision) . . . . .	24790
12029, 1st sent., 1st-2d cl. (re writing pen knife, through catchall provision) . . . . .	20990
12029, 1st sent., 1st-2d cl. (re zip gun, through catchall provision) . . . . .	33690
12029, 1st sent., last cl. . . . .	18010(a)
12029, 2d sent. . . . .	18010(b)
12029, 3d sent. . . . .	18010(c)
12030 (entirety). . . . .	16520(e), 34005, 34010*
12030(a) . . . . .	34005(a)
12030(b) . . . . .	34005(b)
12030(c) . . . . .	34005(c)
12030(d), 1st ¶, 1st -3d sent. . . . .	34005(d)
12030(d), 1st ¶, 4th sent. . . . .	16520(e)
12030(d), 1st ¶, 5th sent. . . . .	34005(d)
12030(d), 2d ¶ . . . . .	34005(d)
12030(e) . . . . .	34010
12031 (entirety). . . . .	16750(b), 16840(b), 17030, 25850-26025 (inclusive), 26030(a)-(c), 26035-26055 (inclusive); 12031(m) is not continued*
12031(a)(1) . . . . .	25850(a)
12031(a)(2) . . . . .	25850(c)
12031(a)(3) . . . . .	16750(b)
12031(a)(4) . . . . .	25850(f)
12031(a)(5)(A) . . . . .	25850(g)
12031(a)(5)(B) . . . . .	25850(h)
12031(a)(6) . . . . .	25850(d)
12031(a)(7) . . . . .	25850(e)
12031(b)(1), 1st ¶, 1st sent. . . . .	25900
12031(b)(1), 1st ¶, 2d sent. . . . .	25905(a)
12031(b)(1), 1st ¶, 3d sent. . . . .	25905(b)
12031(b)(1), 2d ¶ . . . . .	25905(c)
12031(b)(1), 3d ¶ . . . . .	25910
12031(b)(2), 1st sent. . . . .	25915
12031(b)(2), 2d sent. . . . .	25905(d)
12031(b)(2), 3d sent. . . . .	25920(a)
12031(b)(2), 4th sent. . . . .	25920(b)
12031(b)(3) . . . . .	25925

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12031(b)(4) . . . . .	26000
12031(b)(5) . . . . .	26005
12031(b)(6) . . . . .	26010
12031(b)(7) . . . . .	26015
12031(b)(8) . . . . .	26020
12031(c) . . . . .	26025
12031(d) (entirety). . . . .	26030(a)-(c)
12031(d), intro. ¶, 1st sent. . . . .	26030(a), intro. cl.
12031(d), intro. ¶, 2d sent. . . . .	26030(c)
12031(d)(1) . . . . .	26030(a)(1)
12031(d)(2) . . . . .	26030(a)(2)-(3)
12031(d)(3) (re licensed private investigators) . . . . .	26030(a)(4)
12031(d)(3) (re licensed private patrol operators) . . . . .	26030(a)(6)
12031(d)(3) (re licensed alarm company operators) . . . . .	26030(a)(8)
12031(d)(4) . . . . .	26030(a)(9)
12031(d)(5), 1st sent. . . . .	26030(a)(10)
12031(d)(5), 2d sent. . . . .	26030(b)
12031(d)(6) (re uniformed employees of licensed private investigators) . . . . .	26030(a)(5)
12031(d)(6) (re uniformed employees of licensed private patrol operators) . . . . .	26030(a)(7)
12031(e) . . . . .	25850(b)
12031(f) . . . . .	17030
12031(g) . . . . .	16840(b)
12031(h) . . . . .	26035
12031(i) . . . . .	26040
12031(j)(1), 1st sent. . . . .	26045(a)
12031(j)(1), 2d sent. . . . .	26045(c)
12031(j)(2) . . . . .	26045(b)
12031(k) . . . . .	26050
12031(l) . . . . .	26055
12031(m) . . . . .	Not continued (became inoperative 1/1/05)
12031.1 . . . . .	26060
12032 . . . . .	34000
12033 . . . . .	26030(d)
12034 . . . . .	26100
12035 (entirety). . . . .	16600, 16840(b), 16850, 16860, 25000, 25100-25130 (entire chapter)*
12035(a)(1) . . . . .	16860
12035(a)(2) . . . . .	16840(b)
12035(a)(3) . . . . .	25000
12035(a)(4) . . . . .	16600
12035(a)(5) . . . . .	16850
12035(b)(1) . . . . .	25100(a)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12035(b)(2) . . . . .	25100(b)
12035(c) . . . . .	25105
12035(d) . . . . .	25110
12035(e) . . . . .	25115
12035(f) . . . . .	25120
12035(g) . . . . .	25125
12035(h) . . . . .	25130
12036 (entirety) . . . . .	16850, 16860, 25000, 25200-25225 (entire chapter)*
12036(a)(1) . . . . .	16860
12036(a)(2) . . . . .	25000
12036(a)(3) . . . . .	25200(d)
12036(a)(4) . . . . .	16850
12036(b) . . . . .	25200(a)
12036(c) . . . . .	25200(b)
12036(d) . . . . .	25200(c)
12036(e) . . . . .	25205
12036(f) . . . . .	25210
12036(g) . . . . .	25215
12036(h) . . . . .	25220
12036(i) . . . . .	25225
12039 . . . . .	34200
12040 . . . . .	25300
12050-12054 (entire article). . . . .	17020, 26150-26225 (entire chapter)*
12050(a)(1)(A) . . . . .	26150
12050(a)(1)(B) . . . . .	26155(a)-(b)
12050(a)(1)(C) . . . . .	26170
12050(a)(1)(D) . . . . .	26150
12050(a)(1)(E) . . . . .	26165
12050(a)(2)(A)(i) . . . . .	26220(a)
12050(a)(2)(A)(ii) . . . . .	26220(b)
12050(a)(2)(B) . . . . .	26220(e)
12050(a)(2)(C) . . . . .	26220(c)
12050(a)(2)(D) . . . . .	26220(d)
12050(a)(3) . . . . .	17020
12050(b) . . . . .	26200(a)
12050(c) . . . . .	26200(b)
12050(d) . . . . .	26195(a)
12050(e) . . . . .	26195(b)
12050(f)(1) . . . . .	26215(a)
12050(f)(2) . . . . .	26210(a)
12050(f)(3) . . . . .	26215(b)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12050(f)(4)(A) . . . . .	26210(b)
12050(f)(4)(B) . . . . .	26210(c)
12050(f)(4)(C) . . . . .	26210(d)
12050(f)(5) . . . . .	26215(c)
12050(f)(6) . . . . .	26215(d)
12050(g) . . . . .	26155(c)
12050.2 . . . . .	26160
12051 (entirety) . . . . .	26175, 26180
12051(a)(1), 1st sent. . . . .	26175(c)
12051(a)(1), 2d sent. . . . .	26175(d)
12051(a)(1), 3d-4th sent. . . . .	26175(i)
12051(a)(2) . . . . .	26175(e)
12051(a)(3)(A), 1st-3d sent. . . . .	26175(a)
12051(a)(3)(A), 4th sent. . . . .	26175(b)
12051(a)(3)(B) . . . . .	26175(f)
12051(a)(3)(C) . . . . .	26175(g)
12051(a)(3)(D) . . . . .	26175(h)
12051(b) . . . . .	26180(a)
12051(c) . . . . .	26180(b)
12052 . . . . .	26185
12052.5 . . . . .	26205
12053 . . . . .	26225
12054 (entirety) . . . . .	26190
12054(a), 1st ¶, 1st-3d sent. . . . .	26190(a)
12054(a), 1st ¶, 4th-6th sent. . . . .	26190(b)
12054(a), 2d ¶, 1st sent. . . . .	26190(c)
12054(a), 2d ¶, 2d sent. . . . .	26190(d)
12054(b) . . . . .	26190(e)
12054(c) . . . . .	26190(f)
12054(d) . . . . .	26190(g)
12070 (entirety) . . . . .	16620, 16730(a) & (c), 16960, 17310, 26500-26585 (inclusive)*
12070(a) . . . . .	26500
12070(b) (entirety) . . . . .	16620, 17310, 26505-26585 (inclusive)*
12070(b)(1) . . . . .	26505
12070(b)(2) . . . . .	26510
12070(b)(3) . . . . .	26515
12070(b)(4) . . . . .	26520
12070(b)(5), 1st ¶ . . . . .	26525(a)
12070(b)(5), 2d ¶ . . . . .	16620
12070(b)(5), 3d ¶ . . . . .	26525(b)
12070(b)(5), 4th ¶ . . . . .	17310

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12070(b)(6) . . . . .	26530
12070(b)(7) . . . . .	26535
12070(b)(8) . . . . .	26540
12070(b)(9) . . . . .	26545
12070(b)(10) . . . . .	26550
12070(b)(11) . . . . .	26555
12070(b)(12) . . . . .	26560
12070(b)(13) . . . . .	26565
12070(b)(14) . . . . .	26570
12070(b)(15) . . . . .	26575
12070(b)(16) . . . . .	26580
12070(b)(17) . . . . .	26585
12070(c)(1)(A), 1st sent. . . . .	16730(a)
12070(c)(1)(A), 2d sent. . . . .	16730(c)
12070(c)(1)(B) . . . . .	16730(a)
12070(c)(2) . . . . .	16960
12071 (entirety) . . . . .	16130, 16400, 16550, 16810, 17110, 26700-26915 (inclusive)*
12071(a)(1) . . . . .	26700
12071(a)(2) . . . . .	26705(a)
12071(a)(3) . . . . .	26705(b)
12071(a)(4) . . . . .	26710(a)-(c)
12071(a)(5) . . . . .	26710(d)
12071(a)(6) . . . . .	26705(c)
12071(a)(7) . . . . .	26705(d)
12071(b) (entirety) . . . . .	16130, 26800-26885 (inclusive), 26890(a)-(b), 26895, 26900(a), 26905-26915 (inclusive)*
12071(b), intro. cl. . . . .	26800
12071(b)(1) . . . . .	26805
12071(b)(2) . . . . .	26810
12071(b)(3) . . . . .	26815
12071(b)(4) . . . . .	26820
12071(b)(5) . . . . .	26825
12071(b)(6) . . . . .	26830
12071(b)(7) . . . . .	26835
12071(b)(8)(A) . . . . .	26840(a)
12071(b)(8)(B) . . . . .	26840(b)
12071(b)(8)(C) . . . . .	26845
12071(b)(8)(D) . . . . .	26850(a)-(b), 26853, 26856, 26859
12071(b)(8)(E) . . . . .	26850(c)
12071(b)(8)(F) . . . . .	26850(d)
12071(b)(8)(G) . . . . .	26850(e)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12071(b)(8)(H) . . . . .	26850(f)
12071(b)(8)(I) . . . . .	26850(g)
12071(b)(8)(J) . . . . .	26850(h)
12071(b)(9) . . . . .	26865
12071(b)(10) . . . . .	26870
12071(b)(11) . . . . .	26875
12071(b)(12) . . . . .	26880
12071(b)(13) . . . . .	26885
12071(b)(14) . . . . .	26890(a)
12071(b)(15) . . . . .	26890(b)
12071(b)(16) . . . . .	26895
12071(b)(17) . . . . .	26900(a)
12071(b)(18) . . . . .	26905
12071(b)(19) . . . . .	26910
12071(b)(20)(A) . . . . .	26915(a)
12071(b)(20)(B) . . . . .	26915(b)
12071(b)(20)(C) . . . . .	26915(c)
12071(b)(20)(D) . . . . .	26915(d)
12071(b)(20)(E) . . . . .	26915(e)
12071(b)(20)(F) . . . . .	26915(f)
12071(b)(20)(G)(i) . . . . .	16130
12071(b)(20)(G)(ii) . . . . .	26915(g)
12071(c)(1) . . . . .	16400
12071(c)(2) . . . . .	17110
12071(c)(3) . . . . .	16810
12071(c)(4)(A) . . . . .	16550
12071(c)(4)(B) . . . . .	26900(b)
12071(d) . . . . .	26890(c)
12071(e) (entirety) . . . . .	26715
12071(e)(1), 1st sent. . . . .	26715(a)
12071(e)(1), 2d sent. . . . .	26715(b)(1)
12071(e)(1), 3d sent. . . . .	26715(b)(3)
12071(e)(2) . . . . .	26715(b)(2)
12071(e)(3) . . . . .	26715(c)
12071(e)(4) . . . . .	26715(d)
12071(f) . . . . .	26720
12071(g) . . . . .	26725
12071(h) . . . . .	26890(d)
12071.1 (entirety) . . . . .	16800, 27200-27245 (entire article)*
12071.1(a), 1st sent. . . . .	27200(a)
12071.1(a), 2d sent. (incl. (1)-(3)) . . . . .	27200(b)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12071.1(b) . . . . .	27200(c)
12071.1(c) . . . . .	16800
12071.1(d) . . . . .	27200(d)-(e)
12071.1(e)(1) . . . . .	27245(a)
12071.1(e)(2) . . . . .	27245(b)
12071.1(e)(3) . . . . .	27245(c)
12071.1(f), 1st ¶ . . . . .	27205(a)
12071.1(f), 2d ¶ . . . . .	27205(b)
12071.1(f), 3d ¶ . . . . .	27205(c)
12071.1(g) . . . . .	27205(d)
12071.1(h) . . . . .	27210(a)
12071.1(i), 1st sent. . . . .	27210(b)
12071.1(i), 2d sent. . . . .	27210(c)
12071.1(i), 3d sent. . . . .	27210(d)
12071.1(i), 4th sent. . . . .	27210(e)
12071.1(j) . . . . .	27215
12071.1(k), 1st sent. . . . .	27220(a)
12071.1(k), 2d sent. . . . .	27220(b)
12071.1(l) . . . . .	27225
12071.1(m) . . . . .	27230
12071.1(n) . . . . .	27235
12071.1(o) . . . . .	27240(a)
12071.1(p) . . . . .	27240(b)
12071.1(q) . . . . .	27200(f)
12071.4 (entirety) . . . . .	27300-27350 (entire article)*
12071.4(a) . . . . .	27300
12071.4(b) . . . . .	27305
12071.4(c) . . . . .	27310
12071.4(d) . . . . .	27315
12071.4(e) . . . . .	27320
12071.4(f) . . . . .	27325
12071.4(g) . . . . .	27330
12071.4(h) . . . . .	27335
12071.4(i) . . . . .	27340(a)
12071.4(j) . . . . .	27340(b)
12071.4(k) . . . . .	27345
12071.4(l) . . . . .	27350
12072 (entirety) . . . . .	27500-27590 (entire article)*
12072(a)(1) . . . . .	27500(a)
12072(a)(2) . . . . .	27500(b)
12072(a)(3)(A) . . . . .	27505(a)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12072(a)(3)(B) .....	27505(b)
12072(a)(4) .....	27515
12072(a)(5) .....	27520
12072(a)(6) .....	27525(a)
12072(a)(7) .....	27525(b)
12072(a)(8) .....	27530
12072(a)(9) .....	27535
12072(b) .....	27510
12072(c) .....	27540
12072(d) .....	27545
12072(e) .....	27550
12072(f)(1) .....	27555
12072(f)(2) .....	27560
12072(f)(3) .....	27565
12072(f)(4) .....	27570
12072(g) .....	27590
12072.5(a) .....	16230
12072.5(b)-(d) .....	34350
12073 .....	28100
12074 .....	28105
12075 .....	28110
12076 (entirety) .....	28200-28250 (entire article)*
12076(a) .....	28205
12076(b)(1), 1st & 2d sent. ....	28210(a)
12076(b)(1), 3d sent. ....	28210(b), 28250
12076(b)(2) .....	28210(c)
12076(b)(3) .....	28210(d)
12076(b)(4) .....	28210(e)
12076(b)(5) .....	28210(f)
12076(c)(1), 1st & 2d sent. ....	28215(a)
12076(c)(1), 3d sent. ....	28215(b), 28250
12076(c)(2) .....	28215(d)
12076(c)(3) .....	28215(c)
12076(c)(4) .....	28215(e)
12076(c)(5) .....	28215(f)
12076(d) .....	28220
12076(e) .....	28225(a)-(c)
12076(f) .....	28230
12076(g) .....	28235
12076(h) .....	28225(d)
12076(i) .....	28240(a)-(b)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12076(j) . . . . .	28240(c)
12076(k) . . . . .	28245
12076(l) . . . . .	28200
12076.5 . . . . .	28300
12077 (entirety). . . . .	28150-28180 (entire article)*
12077(a) . . . . .	28155
12077(b) . . . . .	28160
12077(c) . . . . .	28165
12077(d) . . . . .	28170
12077(e) . . . . .	28175
12077(f) . . . . .	28180
12077(g) . . . . .	28150
12077.5 . . . . .	30105
12078 (entirety) . . . . .	See discussion at pp. 15-16; see also Section 16585
12078(a)(1) (re § 12071 waiting period) . . . . .	26950
12078(a)(1) (re § 12072 waiting period) . . . . .	27650
12078(a)(2) (re § 12070) . . . . .	26600
12078(a)(2) (re § 12071) . . . . .	27050
12078(a)(2) (re § 12071.1 & 12071.4) . . . . .	27400
12078(a)(2) (re § 12072) . . . . .	27600
12078(a)(2) (re § 12072.5) . . . . .	34355
12078(a)(2) (re § 12073) . . . . .	28400
12078(a)(2) (re § 12074) . . . . .	28400
12078(a)(2) (re § 12075) . . . . .	28400
12078(a)(2) (re § 12076) . . . . .	28400
12078(a)(2) (re § 12076.5) . . . . .	28400
12078(a)(2) (re § 12077) . . . . .	28400
12078(a)(2) (re § 12077.5) . . . . .	30150
12078(a)(2) (re § 12801(b)) . . . . .	31705
12078(a)(3) (re § 12070) . . . . .	26605
12078(a)(3) (re § 12071) . . . . .	27055
12078(a)(3) (re § 12071.1 & 12071.4) . . . . .	27405
12078(a)(3) (re § 12072) . . . . .	27605
12078(a)(3) (re § 12072.5) . . . . .	34360
12078(a)(3) (re § 12073) . . . . .	28405
12078(a)(3) (re § 12074) . . . . .	28405
12078(a)(3) (re § 12075) . . . . .	28405
12078(a)(3) (re § 12076) . . . . .	28405
12078(a)(3) (re § 12076.5) . . . . .	28405
12078(a)(3) (re § 12077) . . . . .	28405
12078(a)(3) (re § 12077.5) . . . . .	30155

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12078(a)(3) (re § 12801(b))	31710
12078(a)(4) (re § 12070)	26610
12078(a)(4) (re § 12071)	27060
12078(a)(4) (re § 12071.1 & 12071.4)	27410
12078(a)(4) (re § 12072)	27610
12078(a)(4) (re § 12072.5)	34365
12078(a)(4) (re § 12073)	28410
12078(a)(4) (re § 12074)	28410
12078(a)(4) (re § 12075)	28410
12078(a)(4) (re § 12076)	28410
12078(a)(4) (re § 12076.5)	28410
12078(a)(4) (re § 12077)	28410
12078(a)(4) (re § 12077.5)	30160
12078(a)(4) (re § 12801(b))	31715
12078(a)(5) (re § 12070)	26615
12078(a)(5) (re § 12071)	27065
12078(a)(5) (re § 12071.1 & 12071.4)	27415
12078(a)(5) (re § 12072)	27615
12078(a)(5) (re § 12072.5)	34370
12078(a)(5) (re § 12073)	28415
12078(a)(5) (re § 12074)	28415
12078(a)(5) (re § 12075)	28415
12078(a)(5) (re § 12076)	28415
12078(a)(5) (re § 12076.5)	28415
12078(a)(5) (re § 12077)	28415
12078(a)(5) (re § 12077.5)	30165
12078(a)(5) (re § 12801(b))	31720
12078(a)(6) (re § 12072(d))	27850
12078(a)(6) (re § 12801(b))	31725
12078(a)(7) (re § 12072(d))	27855
12078(a)(7) (re § 12801(b))	31730
12078(a)(8) (re § 12072(d))	27860
12078(a)(8) (re § 12801(b))	31735
12078(b)(1) (re § 12071)	27100
12078(b)(1) (re § 12072(c))	27700
12078(b)(1) (re § 12072(d))	27865
12078(b)(1) (re § 12801(b))	31740
12078(b)(2)	31745
12078(c)(1)	27870
12078(c)(2)	27875
12078(c)(3)	16720

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12078(d)(1) . . . . .	27880
12078(d)(2) (re § 12072(d)) . . . . .	27885
12078(d)(2) (re § 12801(b)) . . . . .	31750
12078(e) (re § 12071) . . . . .	27105
12078(e) (re § 12072(c)) . . . . .	27705
12078(e) (re § 12072(d)) . . . . .	27890
12078(e) (re § 12801(b)) . . . . .	31755
12078(f) (re § 12072(d)) . . . . .	27895
12078(f) (re § 12801(b)) . . . . .	31760
12078(g)(1), 1st ¶ . . . . .	27900
12078(g)(1), 2d ¶ . . . . .	16730(b)
12078(g)(2) . . . . .	27905
12078(g)(3) (re § 12071 waiting period) . . . . .	26955
12078(g)(3) (re § 12072 waiting period) . . . . .	27655
12078(h) (re § 12072(d)) . . . . .	27910
12078(h) (re § 12801(b)) . . . . .	31765
12078(i)(1) . . . . .	27915
12078(i)(2) . . . . .	27920
12078(i)(3) . . . . .	27925
12078(j) (re § 12072(d)) . . . . .	27930
12078(j) (re § 12801(b)) . . . . .	31770
12078(k)(1) (re § 12071) . . . . .	27110
12078(k)(1) (re § 12072(c)) . . . . .	27710
12078(k)(1) (re § 12801(b)) . . . . .	31775
12078(k)(2) (re § 12071) . . . . .	27115
12078(k)(2) (re § 12072(c)) . . . . .	27715
12078(k)(2) (re § 12801(b)) . . . . .	31780
12078(k)(3) (re § 12071) . . . . .	27120
12078(k)(3) (re § 12072(c)) . . . . .	27720
12078(k)(3) (re § 12801(b)) . . . . .	31785
12078(k)(4) (re § 12071) . . . . .	27125
12078(k)(4) (re § 12072(c)) . . . . .	27725
12078(k)(4) (re § 12801(b)) . . . . .	31790
12078(k)(5) (re § 12071) . . . . .	27130
12078(k)(5) (re § 12072(c)) . . . . .	27730
12078(k)(5) (re § 12801(b)) . . . . .	31795
12078(k)(6) (re § 12071) . . . . .	27135
12078(k)(6) (re § 12072(c)) . . . . .	27735
12078(k)(6) (re § 12801(b)) . . . . .	31800
12078(l) . . . . .	28000
12078(m) (re § 12072(d)) . . . . .	27935

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12078(m) (re § 12801(b)) . . . . .	31805
12078(n) (re § 12071 waiting period) . . . . .	26960
12078(n) (re § 12072 waiting period) . . . . .	27660
12078(o) (re § 12071) . . . . .	27140
12078(o) (re § 12072(c)) . . . . .	27740
12078(o) (re § 12072(d)) . . . . .	27940
12078(o) (re § 12072(f)(1)) . . . . .	27800
12078(p)(1) (re § 12072(a)(3)) . . . . .	27505(b)(4)
12078(p)(1) (re § 12072(d)) . . . . .	27945(c)
12078(p)(2) (re § 12072(a)(3)) . . . . .	27505(b)(6)
12078(p)(2) (re § 12072(d)) . . . . .	27945(e)
12078(p)(2) (re § 12801(b)) . . . . .	31810(b)
12078(p)(3) (re § 12072(a)(3)) . . . . .	27505(b)(5)
12078(p)(3) (re § 12072(d)) . . . . .	27945(d)
12078(p)(3) (re § 12801(b)) . . . . .	31810(a)
12078(p)(4) (re § 12072(a)(3)) . . . . .	27505(b)(2)
12078(p)(4) (re § 12072(d)) . . . . .	27945(a)
12078(p)(5) (re § 12072(a)(3)) . . . . .	27505(b)(3)
12078(p)(5) (re § 12072(d)) . . . . .	27945(b)
12078(p)(6)(A) . . . . .	27505(b)(1)
12078(p)(6)(B) (all except def. of “antique firearm”) . . . . .	27505(b)(1)
12078(p)(6)(B) (def. of “antique firearm”) . . . . .	16170(b)
12078(q) . . . . .	27950
12078(r) (re § 12071 waiting period) . . . . .	26965
12078(r) (re § 12072 waiting period) . . . . .	27665
12078(s)(1) (re § 12072(d)) . . . . .	27955
12078(s)(1) (re § 12801(b)) . . . . .	31815
12078(s)(2) (re § 12072(d)) . . . . .	27960
12078(s)(2) (re § 12072(f)(1)) . . . . .	27810
12078(s)(2) (re § 12801(b)) . . . . .	31820
12078(s)(3) (re § 12071(b)) . . . . .	27000
12078(s)(3) (re § 12072(c)) . . . . .	27745
12078(s)(3) (re § 12072(f)(1)) . . . . .	27805
12078(s)(3) (re § 12801(b)) . . . . .	31825
12078(s)(4) (re § 12071(b)) . . . . .	27005
12078(s)(4) (re § 12072(c)) . . . . .	27750
12078(s)(4) (re § 12072(f)(1)) . . . . .	27815
12078(s)(4) (re § 12801(b)) . . . . .	31830
12078(t)(1) (re § 12071 waiting period) . . . . .	26970
12078(t)(1) (re § 12072 waiting period) . . . . .	27670
12078(t)(2) (re § 12072(d)) . . . . .	27965

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12078(t)(2) (re § 12072(f)(1)) . . . . .	27820
12078(u)(1) . . . . .	16730(a)
12078(u)(2) . . . . .	16990
12079(a) . . . . .	32315
12079(b) . . . . .	16740
12080 . . . . .	34205
12081 (entirety). . . . .	29500-29535 (entire chapter)*
12081(a), 1st sent. . . . .	29500
12081(a), 2d & 3d sent. . . . .	29515
12081(b)(1) . . . . .	29505(a)
12081(b)(2) . . . . .	29505(b)
12081(b)(3) . . . . .	29520(a)
12081(b)(4) . . . . .	29520(b)
12081(b)(5) . . . . .	29520(c)
12081(b)(6) . . . . .	29525
12081(c) . . . . .	29510(a)
12081(d) . . . . .	29535
12081(e) . . . . .	29510(b)
12081(f) . . . . .	29530
12082 (entirety). . . . .	28050-28070 (entire chapter)*
12082(a), 1st-6th sent. . . . .	28050
12082(a), 7th sent. . . . .	28055(a)-(b)
12082(a), 8th sent. . . . .	28055(d)
12082(a), 9th sent. . . . .	28055(c)
12082(b) . . . . .	28060
12082(c) . . . . .	28065
12082(d) . . . . .	28070
12083 (entirety). . . . .	28450-28490 (entire article)*
12083(a) (except 2d sent. of ¶ (a)(3)) . . . . .	28450
12083(a) (2d sent. of ¶ (a)(3)) . . . . .	28455
12083(b) . . . . .	28460
12083(c) . . . . .	28465
12083(d) . . . . .	28470
12083(e) . . . . .	28475
12083(f) . . . . .	28480
12083(g) . . . . .	28485
12083(h) . . . . .	28490
12085(a)-(d) . . . . .	29010
12085(e)(1) . . . . .	16520(b)
12085(e)(2) . . . . .	16520(g)
12085(e)(3) (all except def. of “antique firearm”) . . . . .	16520(d)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12085(e)(3) (def. of “antique firearm”) . . . . .	16170(b)
12086 (entirety). . . . .	16450, 29030-29150 (entire chapter)*
12086(a)(1) . . . . .	29030
12086(a)(2) . . . . .	16450
12086(b)(1), 1st sent. . . . .	29050(a)
12086(b)(1), 2d sent. . . . .	29050(d)
12086(b)(2) . . . . .	29050(b)
12086(b)(3) . . . . .	29055
12086(b)(4) . . . . .	29050(c)
12086(c), intro. cl. . . . .	29100
12086(c)(1) . . . . .	29105
12086(c)(2) . . . . .	29110
12086(c)(3) . . . . .	29115(a)
12086(c)(4) . . . . .	29120
12086(c)(5) . . . . .	29125
12086(c)(6) . . . . .	29130
12086(c)(7) . . . . .	29135
12086(c)(8) . . . . .	29140
12086(c)(9) . . . . .	29150
12086(c)(10) . . . . .	29115(b)
12086(d) . . . . .	29141
12086(e) . . . . .	29142
12086(f)(1) . . . . .	29060
12086(f)(2) . . . . .	29065(a)
12086(f)(3) . . . . .	29065(b)
12086(g)(1) . . . . .	29065(c)
12086(g)(2) . . . . .	29070(a)
12086(g)(3) . . . . .	29070(b)
12086(h) . . . . .	29075
12087 . . . . .	23620
12087.5 . . . . .	23625
12087.6(a) . . . . .	16540
12087.6(b) . . . . .	16610
12087.6(c) . . . . .	16870
12088 . . . . .	23655
12088.1 (entirety). . . . .	23635
12088.1(a) . . . . .	23635(a)
12088.1(b) . . . . .	23635(e)
12088.1(c) . . . . .	23635(d)
12088.1(d) . . . . .	23635(b)
12088.1(e) . . . . .	23635(c)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12088.15 (entirety) . . . . .	23660 to 23670, inclusive
12088.15(a) . . . . .	23660(a)
12088.15(b) . . . . .	23660(b)
12088.15(c) . . . . .	23665(a)
12088.15(d) . . . . .	23665(b)
12088.15(e) . . . . .	23670(a)
12088.15(f) . . . . .	23670(b)
12088.2 . . . . .	23650
12088.3 . . . . .	23640
12088.4 . . . . .	23680
12088.5 . . . . .	23685
12088.6 . . . . .	23645
12088.7 . . . . .	23675
12088.8 (all except def. of “antique firearm”) . . . . .	23630
12088.8 (def. of “antique firearm”) . . . . .	16170(b)
12088.9 . . . . .	23690
12090 . . . . .	23900
12092 . . . . .	23910
12093 . . . . .	23915
12094(a) . . . . .	23920
12094(b) . . . . .	23925
12095 . . . . .	33300
12096 . . . . .	33305
12097 . . . . .	33310
12098 . . . . .	33315
12099 . . . . .	33320
12101 (entirety) . . . . .	17070, 29610-29750 (entire chapter)*
12101(a)(1) . . . . .	29610
12101(a)(2) . . . . .	29615
12101(b)(1) . . . . .	29650
12101(b)(2) . . . . .	29655
12101(c) . . . . .	29700
12101(d) . . . . .	29705
12101(e) . . . . .	17070
12101(f) . . . . .	29750
12125-12133 (entire chapter) . . . . .	16380, 16900, 17140, 31900-32110 (inclusive)*
12125 . . . . .	32000
12126, intro. cl. & (a)-(b) . . . . .	31910
12126(c) . . . . .	16380
12126(d) . . . . .	16900
12126(e) . . . . .	17140

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12127 .....	31905
12128 .....	31900
12129 .....	32005
12130 .....	32010
12131 (entirety) .....	32015 to 32025, inclusive
12131(a)-(b) .....	32015
12131(c)-(f) .....	32020
12131(g) .....	32025
12131.5 .....	32030
12132 (entirety) .....	32105, 32110
12132(a)-(g) .....	32110(a)-(g)
12132(h) .....	32105
12132(i) .....	32110(h)
12132(j) .....	32110(i)
12132(k) .....	32110(j)
12132(l) .....	32110(k)
12133 .....	32100
12200-12251 (entire chapter) .....	16880, 32610-32750 (entire chapter)*
12200 .....	16880
12201 .....	32610
12220 .....	32625
12230 .....	32650
12231 .....	32655
12232 .....	32660
12233 .....	32665
12234 .....	32670
12250 (entirety) .....	32700-32720 (entire article)*
12250, intro. cl. ....	32700, 32710, 32720
12250(a)(1)-(4) .....	32700
12250(b), 1st ¶ .....	32705
12250(b), 2d ¶ .....	32710
12250(b), 3d ¶ .....	32715
12251 .....	32750
12275-12290 (entire chapter) .....	16170(a), 16350, 16790, 16890, 16970, 30500-31115 (entire chapter)*
12275 .....	30500
12275.5 .....	30505
12276 (entirety) .....	30510
12276, intro. cl & (a)-(d) .....	30510, intro. cl. & (a)-(d)
12276(e) .....	30510(f)
12276(f) .....	30510(e)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12276.1(a)-(c) . . . . .	30515
12276.1(d)(1) . . . . .	16890
12276.1(d)(2) . . . . .	16350
12276.1(d)(3) . . . . .	16170(a)
12276.1(e) . . . . .	Not continued (obsolete & memorialized in § 30620(c))
12276.5 . . . . .	30520
12277 . . . . .	16970
12278(a) . . . . .	30530(a)
12278(b) . . . . .	30525
12278(c) . . . . .	30530(b)
12278(d) . . . . .	16170(a)
12280 (entirety). . . . .	30600-30675 (entire article)*
12280(a) . . . . .	30600
12280(b) . . . . .	30605
12280(c) . . . . .	30610
12280(d) . . . . .	30615
12280(e) . . . . .	30625
12280(f)(1) . . . . .	30630(a)
12280(f)(2) . . . . .	30630(b)
12280(f)(3) . . . . .	30630(c)
12280(g) . . . . .	30635
12280(h) . . . . .	30645
12280(i) . . . . .	30655(a)
12280(j) . . . . .	30655(b)
12280(k) . . . . .	30660(a)-(b)
12280(l) . . . . .	30660(c)
12280(m) . . . . .	30665
12280(n) . . . . .	30675(a)
12280(o) . . . . .	30675(b)
12280(p) . . . . .	30675(c)
12280(q) . . . . .	30670(a)
12280(r) . . . . .	30670(b)
12280(s) . . . . .	30640
12280(t) . . . . .	30650
12280(u) . . . . .	30620
12281 (entirety). . . . .	30710-30735 (entire article)*
12281(a)-(d) . . . . .	30715
12281(e) . . . . .	30735(a)-(b)
12281(f)(1)-(3) . . . . .	30720
12281(f)(4) . . . . .	30735(c)
12281(g) . . . . .	30725(a)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12281(h) . . . . .	30730(a)
12281(i) . . . . .	30710
12281(j) . . . . .	30725(b)
12281(k) . . . . .	30730(b)
12282 . . . . .	30800
12285 (entirety). . . . .	30900-30965 (entire article)*
12285(a)(1) . . . . .	30900
12285(a)(2) . . . . .	30905
12285(b)(1), 1st sent. . . . .	30910
12285(b)(1), 2d sent. . . . .	30915, 30920(a)
12285(b)(1), 3d sent. . . . .	30920(b)
12285(b)(2) . . . . .	30925
12285(b)(3), 1st sent. . . . .	30930
12285(b)(3), 2d sent. . . . .	30935
12285(b)(4) . . . . .	30940
12285(c) . . . . .	30945
12285(d) . . . . .	30950
12285(e) . . . . .	30955
12285(f) . . . . .	30960(a)
12285(g) . . . . .	30965
12285(h) . . . . .	30960(b)
12286 . . . . .	31000
12287 . . . . .	31005
12288 . . . . .	31100
12288.5 . . . . .	31105
12289 . . . . .	31115
12289.5 . . . . .	31110
12290(a) . . . . .	31055
12290(b) . . . . .	31050
12290(c) . . . . .	16790
12301-12312 (entire chapter). . . . .	16160, 16180, 16460(a), 16510, 18710-19000 (entire chapter)*
12301(a)(1)-(2) . . . . .	16460(a)
12301(a)(3), 1st sent. . . . .	16460(a)
12301(a)(3), 2d sent. . . . .	16160
12301(a)(3), 3d sent. . . . .	16180
12301(a)(4)-(6) . . . . .	16460(a)
12301(b) . . . . .	16510
12302 . . . . .	18800
12303 . . . . .	18710
12303.1 . . . . .	18725

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12303.2	18715
12303.3	18740
12303.6	18730
12304	18735
12305 (entirety).	18900-18910 (entire article)*
12305(a)	18900(a)
12305(b)	18900(b)
12305(c)	18900(c)
12305(d)	18900(d)
12305(e)	18905
12305(f)-(g)	18910
12307	19000
12308	18745
12309	18750
12310	18755
12311	18780
12312	18720
12316-12325 (entire chapter).	16150, 16290, 16300, 16650, 16660, 17090, 30300-30340 (entire article)*
12316 (entirety).	See 16150, 16300, 30300-30310 (inclusive)*
12316(a)(1)(A)	30300(a)
12316(a)(1)(B), 1st sent.	30300(a)
12316(a)(1)(B), 2d sent.	16150(a)
12316(a)(1)(B), 3d sent.	30300(a)
12316(a)(2), 1st sent.	30300(b)
12316(a)(2), 2d sent.	16300
12316(b)(1)	30305(a)
12316(b)(2)	16150(b)
12316(b)(3)	30305(b)
12316(c)	30310
12316(d)(1)	30305(c)
12316(d)(2)-(3)	30305(d)
12320	30315
12321	30320
12322(a)	30330
12322(b)	30325
12323(a)	16650
12323(b)	16660
12323(c)	16290
12323(d)	17090
12324	30335

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12325 .....	30340
12355(a)-(b) .....	20110
12355(c) .....	16310
12360-12370 (entire chapter).....	31310-31350 (entire chapter)*
12360 .....	31310
12361 .....	31315
12362 .....	31320
12363 .....	31325
12364 .....	31330
12365 .....	31335
12366 .....	31340
12367 .....	31355
12368 .....	31345
12369 .....	31350
12370(a)-(d) .....	31360
12370(e) .....	17320
12401-12426 (entire chapter) .....	17240, 17250, 22810-23025 (entire division)*
12401 .....	17240
12402 .....	17250
12403 .....	22820
12403.1 .....	22830
12403.5 .....	22835
12403.7 .....	22810
12403.8 .....	22815
12403.9 .....	22825
12404 .....	22840
12420 .....	22900
12421 .....	22905
12422, 1st ¶ .....	22910(a)
12422, 2d ¶ .....	22910(b)
12423 .....	23000
12424, 1st ¶- 3d ¶ .....	23005
12424, 4th ¶ .....	23010
12424.5 .....	23015
12425 .....	23020
12426 .....	23025
12500 .....	17210
12501 .....	33415
12520 .....	33410
12550(a) .....	16250
12550(b) .....	16520(a)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12550(c) . . . . .	16700(a)
12551 . . . . .	19910
12552 . . . . .	19915
12553(a) . . . . .	20150
12553(b) . . . . .	20155
12554 . . . . .	20160
12555(a)-(b) . . . . .	20165
12555(c) . . . . .	16700(b)
12556 (entirety). . . . .	20170 to 20180, inclusive
12556(a) . . . . .	20170(a)
12556(b) . . . . .	20180(a)
12556(c) . . . . .	20180(b)
12556(d) . . . . .	20175
12556(e) . . . . .	20170(b)
12556(f) . . . . .	20180(c)
12580 . . . . .	16270
12581 . . . . .	16280
12582 . . . . .	20010
12583 . . . . .	20015
12590(a)(1)-(3) . . . . .	17510(a)
12590(a)(4) . . . . .	830.95(a)
12590(b) (re picketing in uniform of police office) . . . . .	830.95(b)
12590(b) (re acts other than picketing in uniform of police office) . . . . .	17510(b)
12590(c) . . . . .	17510(c)-(d)
12600 . . . . .	19400
12601(a)-(b) . . . . .	16780
12601(c) . . . . .	16770
12650 . . . . .	17230
12651 . . . . .	22610
12652 . . . . .	22615
12653 . . . . .	22620
12654 . . . . .	22625
12655 . . . . .	19405
12800-12809 (entire article). . . . .	16170(b), 16370, 16450, 31610-31700 (inclusive)*
12800 . . . . .	31610
12801(a)(1) . . . . .	16450
12801(a)(2) . . . . .	16370
12801(b) (all except def. of “antique firearm”) . . . . .	31615(a)
12801(b) (def. of “antique firearm”) . . . . .	16170(b)
12801(c) . . . . .	31615(b)
12801(d) . . . . .	31615(c)

\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

<b>Existing Provision</b>	<b>Corresponding New Provision</b>
12802 .....	31620
12803 .....	31625
12804(a) .....	31630(a)
12804(b) .....	31630(b)
12804(c)(1), 1st sent. ....	31640(a)
12804(c)(1), 2d sent. ....	31640(b)
12804(c)(1), 3d sent. ....	31640(c)
12804(c)(2) .....	31640(b)
12804(d) .....	31635(a)
12804(e) .....	31640(e)
12804(f) .....	31630(c)
12804(g) .....	31655(a)
12804(h) .....	31665
12804(i) .....	31640(d)
12804(j) .....	31635(b)
12805 (entirety). ....	31645, 31650
12805(a) .....	31645(a)
12805(b) .....	31645(b)
12805(c) .....	31650(a)
12805(d) .....	31650(b)
12805(e) .....	31650(c)
12805(f) .....	31650(d)
12805(g) .....	31650(e)
12806(a) .....	31655(b)
12806(b) .....	31655(c)
12807 .....	31700
12808 .....	31660
12809 .....	31670




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\*/ For further information relating to an entry with an asterisk, see the Supplemental Disposition Table immediately following this table.

## SUPPLEMENTAL DISPOSITION TABLE

**Note.** This table provides additional information regarding the proposed disposition of certain provisions within Title 2 of Part 4 of the Penal Code. Unless otherwise indicated, all statutory references are to the Penal Code.

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Existing Provision:

Section 12001.1

Corresponding New Provisions:

Article 6 (commencing with Section 20810) of Chapter 2 of Division 5 of Title 3 of Part 6, which is the same as Sections 20810 to 20820, inclusive

*plus ...*

Section 17290 (“undetectable knife”)

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Existing Provision:

Section 12021

Corresponding New Provisions:

Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, which is the same as Sections 29800 to 29875, inclusive

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Existing Provision:

Section 12021.1

Corresponding New Provisions:

Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6, which is the same as Sections 29900 and 29905

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Existing Provision:

Section 12021.3

Corresponding New Provisions:

Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, which is the same as Sections 33850 to 33895, inclusive

*plus ...*

Section 26590 (exception for delivery, transfer, or return of firearm made by court or law enforcement agency pursuant to Chapter 2 of Division 11)

Existing Provision:

Section 12025

Corresponding New Provisions:

Section 25400

*plus ...*

Section 16750(a) (“lawful possession of the firearm”)

☞ **Note.** Section 12025(h) is not continued because it was repealed by its own terms on January 1, 2005. See 1999 Cal. Stat. ch. 571, § 2.

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Existing Provision:

Section 12026.1

Corresponding New Provisions:

Section 25610

*plus ...*

Section 16850 (“locked container”)

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Existing Provision:

Section 12026.2

Corresponding New Provisions:

Article 3 (commencing with Section 25505) of Chapter 2 of Division 5 of Title 4 of Part 6, which is the same as Sections 25505 to 25595, inclusive

*plus ...*

Section 16850 (“locked container”)

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Existing Provision:

Section 12027

Corresponding New Provisions:

Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6, which is the same as Sections 25450 to 25475, inclusive

*plus ...*

Sections 25615 to 25655, inclusive

*and ...*

Sections 16360 (“CCW”) and 16690 (“honorably retired”)

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Existing Provision:

Section 12027(a)

Corresponding New Provisions:

Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6, which is the same as Sections 25450 to 25475, inclusive

*plus ...*

Sections 16360 (“CCW”) and 16690 (“honorably retired”)

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Existing Provision:

Section 12027.1

Corresponding New Provisions:

Chapter 5 (commencing with Section 26300) of Division 5 of Title 4 of Part 6, which is the same as Sections 26300 to 26325, inclusive

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Existing Provision:

Section 12028.5

Corresponding New Provisions:

Division 4 (commencing with Section 18250) of Title 2 of Part 6, which is the same as Sections 18250 to 18500, inclusive

*plus ...*

Sections 16120 (“abuse”), 16430 (“deadly weapon”), and 16490 (“domestic violence”)

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Existing Provision:

Section 12030

Corresponding New Provisions:

Sections 34005 and 34010

*plus ...*

Sections 16520(e) (“firearm”)

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Existing Provision:

Section 12031

Corresponding New Provisions:

Sections 25850 to 26025, inclusive, Section 26030(a)-(c), and Sections 26035 to 26055, inclusive

(This is the same as:

- Sections 25850 to 26055, inclusive, except not Section 26030(d)

or

- Article 2 (commencing with Section 25850), Article 3 (commencing with Section 25900), and Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6, except not Sections 26030(d) and 26060.)

*plus ...*

Sections 16750(b) (“lawful possession of the firearm”), 16840(b) (“loaded” and “loaded firearm”), and 17030 (“prohibited area”)

**Note.** Section 12031(m) is not continued because it became inoperative on January 1, 2005.

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Existing Provision:

Section 12035

Corresponding New Provisions:

Chapter 2 (commencing with Section 25100) of Division 4 of Title 4 of Part 6, which is the same as Sections 25100 to 25130, inclusive

*plus ...*

Sections 16600 (“great bodily injury”), 16840(b) (“loaded” and “loaded firearm”), 16850 (“locked container”), and 16860 (“locking device” for firearm”)

*and ...*

Section 25000 (“child”)

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Existing Provision:

Section 12036

Corresponding New Provisions:

Chapter 3 (commencing with Section 25200) of Division 4 of Title 4 of Part 6, which is the same as Sections 25200 to 25225, inclusive

*plus ...*

Sections 16850 (“locked container”) and 16860 (“locking device” for firearm”)

*and ...*

Section 25000 (“child”)

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Existing Provisions:

Section 12050 to 12054, inclusive

(This is the same as Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.)

Corresponding New Provisions:

Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, which is the same as Sections 26150 to 26225, inclusive

*plus ...*

Section 17020 (“principal place of employment or business”)

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Existing Provision:

Section 12070

Corresponding New Provisions:

Sections 26500 to 26585, inclusive

(This is the same as Article 1 (commencing with Section 26500) of Chapter 1 of Division 6 of Title 4 of Part 6, except not Section 26590.)

*plus ...*

Sections 16620 (“Gun Show Trader”), 16730(a), (c) (“infrequent”), 16960 (“person taking title or possession of a firearm by operation of law”), and 17310 (“used firearm”)

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Existing Provision:

Section 12070(b)

Corresponding New Provisions:

Sections 26505 to 26585, inclusive

(This is the same as Article 1 (commencing with Section 26500) of Chapter 1 of Division 6 of Title 4 of Part 6, except not Sections 26500 and 26590.)

*plus ...*

Sections 16620 (“Gun Show Trader”) and 17310 (“used firearm”)

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Existing Provision:

Section 12071

Corresponding New Provisions:

Sections 26700 to 26915, inclusive, which is the same as Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6

*plus ...*

Sections 16130 (“agent”), 16400 (“clear evidence of the person’s identity and age”), 16550 (“firearm transaction record”), 16810 (“licensed premises,” “licensee’s business premises,” and “licensee’s place of business”), and 17110 (“secure facility” for firearm storage by dealer)

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Existing Provision:

Section 12071(b)

Corresponding New Provisions:

Article 2 (commencing with Section 26800) of Division 6 of Title 4 of Part 6, except not Sections 26890(c)-(d) and 26900(b)

*plus ...*

Section 16130 (“agent”)

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Existing Provision:

Section 12071.1

Corresponding New Provisions:

Article 1 (commencing with Section 27200) of Chapter 3 of Division 6 of Title 4 of Part 6, which is the same as Sections 27200 to 27245, inclusive

*plus ...*

Section 16800 (“licensed gun show producer”)

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Existing Provision:

Section 12071.4

Corresponding New Provisions:

Article 2 (commencing with Section 27300) of Chapter 3 of Division 6 of Title 4 of Part 6, which is the same as Sections 27300 to 27350, inclusive

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Existing Provision:

Section 12072

Corresponding New Provisions:

Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, which is the same as Sections 27500 to 27590, inclusive

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Existing Provision:

Section 12076

Corresponding New Provisions:

Article 3 (commencing with Section 28200) of Chapter 6 of Division 6 of Title 4 of Part 6, which is the same as Sections 28200 to 28250, inclusive

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Existing Provision:

Section 12077

Corresponding New Provisions:

Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, which is the same as Sections 28150 to 28180, inclusive

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Existing Provision:

Section 12081

Corresponding New Provisions:

Chapter 2 (commencing with Section 29500) of Division 8 of Title 4 of Part 6, which is the same as Sections 29500 to 29535, inclusive

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Existing Provision:

Section 12082

Corresponding New Provisions:

Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, which is the same as Sections 28050 to 28070, inclusive

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Existing Provision:

Section 12083

Corresponding New Provisions:

Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of Title 4 of Part 6, which is the same as Sections 28450 to 28490, inclusive

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Existing Provision:

Section 12086

Corresponding New Provisions:

Chapter 2 (commencing with Section 29030) of Division 7 of Title 4 of Part 6, which is the same as Sections 29030 to 29150, inclusive

*plus ...*

Section 16450 (“department”)

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Existing Provision:

Section 12101

Corresponding New Provisions:

Chapter 1 (commencing with Section 29610) of Division 9 of Title 4 of Part 6, which is the same as Sections 29610 to 29750, inclusive

*plus ...*

Section 17070 (“responsible adult”)

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Existing Provisions:

Section 12125 to 12133, inclusive

(This is the same as Chapter 1.3 (commencing with Section 12125) of Title 2 of Part 4.)

Corresponding New Provisions:

Sections 31900 to 32110, inclusive, which is the same as Article 4 (commencing with Section 31900), Article 5 (commencing with Section 32000), and Article 6 (commencing with Section 32100) of Chapter 4 of Division 10 of Title 4 of Part 6

*plus ...*

Sections 16380 (“chamber load indicator”), 16900 (“magazine disconnect mechanism”), and 17140 (“semiautomatic pistol”)

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Existing Provisions:

Section 12200 to 12251, inclusive

(This is the same as Chapter 2 (commencing with Section 12200) of Title 2 of Part 4.)

Corresponding New Provisions:

Chapter 6 (commencing with Section 32610) of Division 10 of Title 4 of Part 6, which is the same as Sections 32610 to 32750, inclusive

*plus ...*

Section 16880 (“machinegun”)

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Existing Provision:

Section 12250

Corresponding New Provisions:

Article 4 (commencing with Section 32700) of Chapter 6 of Division 10 of Title 4 of Part 6, which is the same as Sections 32700 to 32720, inclusive

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Existing Provisions:

Section 12275 to 12290, inclusive

(This is the same as Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4.)

Corresponding New Provisions:

Chapter 2 (commencing with Section 30500) of Division 10 of Title 4 of Part 6, which is the same as Sections 30500 to 31115, inclusive

*plus ...*

Sections 16170(a) (“antique firearm”), 16350 (“capacity to accept more than 10 rounds”), 16790 (“licensed gun dealer”), 16890 (“magazine”), and 16970 (“person”)

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Existing Provision:

Section 12280

Corresponding New Provisions:

Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4 of Part 6, which is the same as Sections 30600 to 30675, inclusive

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Existing Provision:

Section 12281

Corresponding New Provisions:

Article 3 (commencing with Section 30710) of Chapter 2 of Division 10 of Title 4 of Part 6, which is the same as Sections 30710 to 30735, inclusive

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Existing Provision:

Section 12285

Corresponding New Provisions:

Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, which is the same as Sections 30900 to 30965, inclusive

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Existing Provisions:

Section 12301 to 12312, inclusive

(This is the same as Chapter 2.5 (commencing with Section 12301) of Title 2 of Part 4.)

Corresponding New Provisions:

Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 of Part 6, which is the same as Sections 18710 to 19000, inclusive

*plus ...*

Sections 16160 (“antique cannon”), 16180 (“antique rifle”), 16460(a) (“destructive device”), and 16510 (“explosive”)

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Existing Provision:

Section 12305

Corresponding New Provisions:

Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2 of Part 6, which is the same as Sections 18900 to 18910, inclusive

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Existing Provisions:

Section 12316 to 12325, inclusive

(This is the same as Chapter 2.6 (commencing with Section 12316) of Title 2 of Part 4.)

Corresponding New Provisions:

Article 2 (commencing with Section 30300) of Chapter 1 of Division 10 of Title 4 of Part 6, which is the same as Sections 30300 to 30340, inclusive

*plus ...*

Sections 16150 (“ammunition”), 16290 (“body vest” or “body shield”), 16300 (“bona fide evidence of majority and identity”), 16650 (“handgun”)

ammunition”), 16660 (“handgun ammunition designed primarily to penetrate metal or armor”), and 17090 (“rifle”)

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Existing Provision:

Section 12316

Corresponding New Provisions:

Sections 30300 to 30310, inclusive

*plus ...*

Sections 16150 (“ammunition”) and 16300 (“bona fide evidence of majority and identity”)

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Existing Provisions:

Section 12360 to 12370, inclusive

(This is the same as Chapter 3.5 (commencing with Section 12360) of Title 2 of Part 4.)

Corresponding New Provisions:

Chapter 3 (commencing with Section 31310) of Division 10 of Title 4 of Part 6, which is the same as Sections 31310 to 31350, inclusive

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Existing Provisions:

Section 12401 to 12426, inclusive

(This is the same as Chapter 4 (commencing with Section 12401) of Title 2 of Part 4.)

Corresponding New Provisions:

Division 11 (commencing with Section 22810) of Title 3 of Part 6, which is the same as Sections 22810 to 23025, inclusive

*plus ...*

Sections 17240 (“tear gas”) and 17250 (“tear gas weapon”)

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Existing Provisions:

Section 12800 to 12809, inclusive

(This is the same as Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4.)

Corresponding New Provisions:

Sections 31610 to 31700, inclusive

(This is the same as Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of Title 4 of Part 6, plus Section 31700.)

*plus ...*

Sections 16170(b) (“antique firearm”), 16370 (“certified instructor” or “DOJ certified instructor”), and 16450 (“department”)

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## CONFORMING REVISIONS

### BUSINESS & PROFESSIONS CODE

**Bus. & Prof. Code § 7542.1 (amended). Licensee or employee of licensee carrying tear gas or other nonlethal chemical agent**

SEC. \_\_\_\_\_. Section 7542.1 of the Business and Professions Code is amended to read:

7542.1. Every licensee and any person employed and compensated by a licensee who in the course of ~~such~~ that employment or business carries tear gas or any other nonlethal chemical agent shall complete the required course pursuant to Section ~~12403.5~~ 22835 of the Penal Code.

**Comment.** Section 7542.1 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. The section is also amended to make a technical revision.

**Bus. & Prof. Code § 7581 (amended). Rules director may adopt and enforce**

SEC. \_\_\_\_\_. Section 7581 of the Business and Professions Code is amended to read:

7581. The director may adopt and enforce reasonable rules, as follows:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including, but not limited to, persons employed by any lawful business as security guards or patrolpersons, and armored contract carriers and limiting the field and scope of the operations of a licensee to those in which he or she is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) Establishing the qualifications that any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or employed by an armored contract carrier, must meet as a condition of becoming eligible to carry firearms pursuant to ~~subdivision (d) of Section 12031~~ Section 26030 of the Penal Code.

(e) Requiring each uniformed employee of a private patrol operator and each armored vehicle guard, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of this employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice, establishing the term of the registration for a period of not less than two nor more than four years, and providing for the

renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for a hearing, refuse this registration to any person who lacks good moral character, and may impose reasonable additional requirements as are necessary to meet local needs that are not inconsistent with the provisions of this chapter.

(f) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with, or any person in this state, may file a complaint with the director alleging that any licensed private patrol operator, registered security guard, or patrolperson, or anyone who is an applicant for registration or licensure with the bureau, fails to meet standards for registration or licensure, or violates any provision of this chapter, and providing further for the investigation of the charges and a response to the charging or complaining party in the manner described in subdivision (b) of Section 129.

(g) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to those firearms.

**Comment.** Subdivision (d) of Section 7581 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7582.2 (amended). Application of chapter**

SEC. \_\_\_\_\_. Section 7582.2 of the Business and Professions Code is amended to read:

7582.2. This chapter does not apply to the following:

(a) A person who does not meet the requirements to be a proprietary private security officer, as defined in Section 7574.1, and is employed exclusively and regularly by any employer who does not provide contract security services for other entities or persons, in connection with the affairs of the employer only and where there exists an employer-employee relationship if that person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, “deadly weapon” is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided the part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his or her duties as an attorney at law.

(g) A collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) Any bank subject to the jurisdiction of the Commissioner of Financial Institutions of the State of California under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of Currency of the United States.

(j) A person engaged solely in the business of securing information about persons or property from public records.

(k) A peace officer of this state or a political subdivision thereof while the peace officer is employed by a private employer to engage in off-duty employment in accordance with Section 1126 of the Government Code. However, nothing herein shall exempt ~~such a~~ peace officer who either contracts for his or her services or the services of others as a private patrol operator or contracts for his or her services as or is employed as an armed private security officer. For purposes of this subdivision, "armed security officer" means an individual who carries or uses a firearm in the course and scope of that contract or employment.

(l) A retired peace officer of the state or political subdivision thereof when the retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7583.5. This officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code or ~~paragraph (1) of subdivision (b) of Section 12031~~ Sections 25900 to 25910, inclusive, of the Penal Code or has

met the requirements set forth in ~~Section 12033~~ subdivision (d) of Section 26030 of the Penal Code. However, nothing herein shall exempt the retired peace officer who contracts for his or her services or the services of others as a private patrol operator.

(m) A licensed insurance adjuster in performing his or her duties within the scope of his or her license as an insurance adjuster.

(n) Any savings association subject to the jurisdiction of the Commissioner of Financial Institutions or the Office of Thrift Supervision.

(o) Any secured creditor engaged in the repossession of the creditor's collateral and any lessor engaged in the repossession of leased property in which it claims an interest.

(p) A peace officer in his or her official police uniform acting in accordance with subdivisions (c) and (d) of Section 70 of the Penal Code.

(q) An unarmed, uniformed security person employed exclusively and regularly by a motion picture studio facility employer who does not provide contract security services for other entities or persons in connection with the affairs of that employer only and where there exists an employer-employee relationship if that person at no time carries or uses any deadly weapon, as defined in subdivision (a), in the performance of his or her duties, which may include, but are not limited to, the following business purposes:

(1) The screening and monitoring access of employees of the same employer.

(2) The screening and monitoring access of prearranged and preauthorized invited guests.

(3) The screening and monitoring of vendors and suppliers.

(4) Patrolling the private property facilities for the safety and welfare of all who have been legitimately authorized to have access to the facility.

(r) The changes made to this section by the act adding this subdivision during the 2005-06 Regular Session of the Legislature shall apply as follows:

(1) On and after July 1, 2006, to a person hired as a security officer on and after January 1, 2006.

(2) On and after January 1, 2007, to a person hired as a security officer before January 1, 2006.

**Comment.** Subdivision (k) of Section 7582.2 is amended to make a technical revision.

Subdivision (l) is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7583.12 (amended). Requirements for employee or licensee to carry firearm**

SEC. \_\_\_\_ . Section 7583.12 of the Business and Professions Code is amended to read:

7583.12. (a) No employee of a licensee shall carry or use a firearm unless the employee has in his or her possession both of the following:

(1) A valid guard registration card issued pursuant to this chapter.

(2) A valid firearm qualification card issued pursuant to this chapter.

(b) Paragraph (2) of subdivision (a) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who meets all of the following:

(1) He or she has successfully completed a course of study in the use of firearms.

(2) He or she is authorized to carry a concealed firearm in the course and scope of his or her employment pursuant to ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code.

(3) He or she has proof that he or she has applied to the bureau for a firearms qualification card.

(c)(1) This section shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who has written approval from his or her primary employer, as defined in paragraph (2) of subdivision (i) of Section 7583.9, to carry a firearm while working as a security guard or security officer.

(2) A peace officer exempt under this subdivision shall carry on his or her person a letter of approval from his or her primary employer authorizing him or her to carry a firearm while working as a security guard or security officer.

**Comment.** Subdivision (b) of Section 7583.12 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7583.31 (amended). Firearms qualification card**

SEC. \_\_\_\_\_. Section 7583.31 of the Business and Professions Code is amended to read:

7583.31. A firearms qualification card does not authorize the holder thereof to carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner pursuant to Section ~~12050~~ 26150, 26155, 26170, or 26215 of the Penal Code.

**Comment.** Section 7583.31 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7583.35 (amended). Required course for carrying tear gas or other nonlethal chemical agent**

SEC. \_\_\_\_\_. Section 7583.35 of the Business and Professions Code is amended to read:

7583.35. Every licensee, qualified manager, or a registered uniformed security guard, who in the course of his or her employment carries tear gas or any other nonlethal chemical agent, shall complete the required course pursuant to Section ~~12403.5~~ 22835 of the Penal Code.

**Comment.** Section 7583.35 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7583.37 (amended). Fines and prohibited acts**

SEC. \_\_\_\_\_. Section 7583.37 of the Business and Professions Code is amended to read:

7583.37. The director may assess fines as enumerated in Article 7 (commencing with Section 7587). Assessment of administrative fines shall be independent of any other action by the bureau or any local, state, or federal governmental agency that may result from a violation of this article. In addition to other prohibited acts under this chapter, no licensee, qualified manager, or registered security guard shall, during the course and scope of licensed activity, do any of the following:

- (a) Carry any inoperable, replica, or other simulated firearm.
- (b) Use a firearm in violation of the law, or in knowing violation of the standards for the carrying and usage of firearms as taught in the course of training in the carrying and use of firearms. Unlawful or prohibited uses of firearms shall include, but not be limited to, the following:
  - (1) Illegally using, carrying, or possessing a dangerous weapon.
  - (2) Brandishing a weapon.
  - (3) Drawing a weapon without proper cause.
  - (4) Provoking a shooting incident without cause.
  - (5) Carrying or using a firearm while on duty while under the influence of alcohol or dangerous drugs.
  - (6) Carrying or using a firearm of a caliber for which a firearms permit has not been issued by the bureau.
- (c) Carry or use a baton in the performance of his or her duties, unless he or she has in his or her possession a valid baton certificate issued pursuant to Section 7585.14.
- (d) Carry or use tear gas or any other nonlethal chemical agent in the performance of his or her duties unless he or she has in his or her possession proof of completion of a course in the carrying and use of tear gas or any other nonlethal chemical agent.
- (e) Carry a concealed pistol, revolver, or other firearm capable of being concealed upon the person unless one of the following circumstances applies:
  - (1) The person has been issued a permit to carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner by a local law enforcement agency pursuant to Section ~~12050~~ 26150, 26155, 26170, or 26215 of the Penal Code.
  - (2) The person is employed as a guard or messenger of a common carrier, bank, or other financial institution and he or she carries the weapon while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state, as specified in ~~subdivision (e) of Section 12027~~ Section 25630 of the Penal Code.
  - (3) The person is an honorably retired peace officer authorized to carry a concealed firearm pursuant to ~~subdivision (a) or (i) of Section 12027~~ Section

25650 of the Penal Code or Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code.

(4) The person is a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is authorized to carry a concealed firearm in the course and scope of his or her employment pursuant to ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code.

**Comment.** Subdivision (e) of Section 7583.37 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7591.11 (amended). Firearms permit for licensee, qualified manager, or alarm agent**

SEC. \_\_\_\_\_. Section 7591.11 of the Business and Professions Code is amended to read:

7591.11. The bureau shall deny a firearms permit, pursuant to ~~Section 12021 Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6 of the Penal Code,~~ to any licensee, qualified manager, or alarm agent who has been convicted of a felony, unless the felony conviction has been reduced pursuant to Section 17 of the Penal Code or the person has been pardoned by the Governor. The licensee, qualified manager, or alarm agent shall not have a right to a review or a hearing if the denial is made pursuant to this section.

**Comment.** Section 7591.11 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7596.6 (amended). Firearm qualification card**

SEC. \_\_\_\_\_. Section 7596.6 of the Business and Professions Code is amended to read:

7596.6. A firearms qualification card does not authorize the holder thereof to carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner pursuant to ~~Section 12050~~ 26150, 26155, 26170, or 26215 of the Penal Code.

**Comment.** Section 7596.6 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7596.12 (amended). Completion of course to carry tear gas or other nonlethal chemical agent**

SEC. \_\_\_\_\_. Section 7596.12 of the Business and Professions Code is amended to read:

7596.12. Every person licensed, registered, or designated under this chapter, who in the course of his or her employment carries tear gas, or any other nonlethal chemical agent, shall complete the course required pursuant to ~~Section 12403.5~~ 22835 of the Penal Code.

**Comment.** Section 7596.12 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7597.1 (amended). Possession of firearms qualification card required**

SEC. \_\_\_\_ . Section 7597.1 of the Business and Professions Code is amended to read:

7597.1. (a) No licensee, qualified manager, branch office manager, or alarm agent shall carry, use, or possess a loaded or unloaded firearm in the course and scope of his or her employment, whether or not it is serviceable or operative, unless he or she has in his or her possession a valid and current firearms qualification card issued to him or her by the bureau. The card shall be shown to any peace officer or bureau representative upon demand.

(b) Subdivision (a) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who meets all of the following:

(1) He or she has successfully completed a course of study in the use of firearms.

(2) He or she is authorized to carry a concealed firearm in the course and scope of his or her employment pursuant to ~~subdivision (a) of Section 12027 Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6~~ of the Penal Code.

(3) He or she has proof that he or she has applied to the bureau for a firearms qualification card.

(c) A fine of twenty-five dollars (\$25) may be assessed for the first violation of this section and a fine of one hundred dollars (\$100) for each subsequent violation.

**Comment.** Subdivision (b) of Section 7597.1 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 7597.6 (amended). Carrying concealed pistol, revolver, or other firearm**

SEC. \_\_\_\_ . Section 7597.6 of the Business and Professions Code is amended to read:

7597.6. (a) No licensee, qualified manager, branch office manager, or alarm agent shall carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner unless one of the following circumstances apply:

(1) The person has been issued a permit to carry that firearm in a concealed manner by a local law enforcement agency pursuant to ~~Section 12050~~ 26150, 26155, 26170, or 26215 of the Penal Code.

(2) The person is an honorably retired peace officer authorized to carry a concealed firearm pursuant to ~~subdivision (a) or (i) of Section 12027~~ Section 25650 of the Penal Code or Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code.

(3) The person is a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is authorized to carry a concealed firearm in the course and scope of his or her employment pursuant to ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code.

(b) A fine of five hundred dollars (\$500) may be assessed for each violation of subdivision (a).

**Comment.** Subdivision (a) of Section 7597.6 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 17533.9 (amended). Advertising for sale of tear gas, tear gas devices, and tear gas weapons**

SEC. \_\_\_\_\_. Section 17533.9 of the Business and Professions Code is amended to read:

17533.9. It shall be unlawful for any person, firm, corporation, or association, in any newspaper, magazine, circular, form letter, or open publication, published, distributed, or circulated in this state, including over the Internet, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device, to advertise the sale of tear gas, tear gas devices, and tear gas weapons, as defined in Sections ~~12401 and 12402~~ 17240 and 17250 of the Penal Code, unless there is conspicuously displayed or stated in connection with the name and description of that tear gas, or those tear gas weapons or devices, a direct and unequivocal statement that will clearly indicate that possession or transportation of tear gas and tear gas weapons or devices is prohibited by law unless specifically exempted or permitted pursuant to the authority contained in ~~Chapter 4 (commencing with Section 12401) of Title 2 of Part 4~~ Division 11 (commencing with Section 22810) of Title 3 of Part 6 of the Penal Code.

**Comment.** Section 17533.9 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 21626 (amended). “Secondhand dealer” and “coin dealer”**

SEC. \_\_\_\_\_. Section 21626 of the Business and Professions Code is amended to read:

21626. (a) A “secondhand dealer,” as used in this article, means and includes any person, copartnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property. A “secondhand dealer” does not include a “coin dealer” or participants at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who are not required to be licensed pursuant to ~~Section 12071~~ Sections 26700 to 26915, inclusive, of the Penal Code, who are acting in compliance with the requirements of ~~Section 12070 and subdivision (d) of Section 12072~~ Sections

26500 to 26585, inclusive, and 27545 of the Penal Code, and who are not a “Gun Show Trader,” as described in ~~paragraph (5) of subdivision (b) of Section 12070~~ Sections 16620 and 26525 of the Penal Code.

(b) As used in this section, a “coin dealer” means any person, firm, partnership, or corporation whose principal business is the buying, selling, and trading of coins, monetized bullion, or commercial grade ingots of gold, or silver, or other precious metals.

**Comment.** Subdivision (a) of Section 21626 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Bus. & Prof. Code § 21641 (amended). License to engage in business of secondhand dealer**

SEC. \_\_\_\_ . Section 21641 of the Business and Professions Code is amended to read:

21641. (a) The chief of police, the sheriff or, where appropriate, the police commission, shall accept an application for and grant a license permitting the licensee to engage in the business of secondhand dealer, as defined in Section 21626, to an applicant who has not been convicted of an attempt to receive stolen property or any other offense involving stolen property. Prior to the granting of a license, the licensing authority shall submit the application to the Department of Justice. If the Department of Justice does not comment on the application within 30 days thereafter, the licensing authority may grant the applicant a license. All forms for application and licensure, and license renewal, shall be prescribed and provided by the Department of Justice. A fee may be charged to the applicant as specified by the Department of Justice and the local licensing authority for processing the initial license application.

(b) For the purposes of this section, “convicted” means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a secondhand dealer’s license solely on the grounds that he or she violated any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

(d) Any person licensed as a firearms dealer pursuant to ~~Section 12071~~ Sections 26700 to 26915, inclusive, of the Penal Code, who is conducting business at gun shows or events pursuant to ~~subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071~~ subdivision (b) of Section 26805 of the Penal Code, and who has a valid secondhand dealer license granted by the appropriate local authorities in the jurisdiction where the firearms dealer license has been granted, shall be authorized to conduct business as a secondhand dealer at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, without regard to the jurisdiction within this state that issued the secondhand dealer license pursuant to subdivision (a) of this section. No additional

fees or separate secondhand dealer license shall be required by any agency having jurisdiction over the locality where the gun show or event is conducted. However, the person shall otherwise be subject to, and comply with, the requirements of this article when he or she acts as a secondhand dealer at the gun show or event to the same extent as if he or she were licensed as a secondhand dealer in the jurisdiction in which the gun show or event is being conducted.

**Comment.** Subdivision (d) of Section 21641 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## CIVIL CODE

### **Civ. Code § 3485 (amended). Abatement of nuisance on real property**

SEC. \_\_\_\_ . Section 3485 of the Civil Code is amended to read:

3485. (a) To abate the nuisance caused by illegal conduct involving an unlawful weapons or ammunition purpose on real property, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to that unlawful weapons or ammunition purpose. In filing this action, which shall be based upon an arrest report or other report by a law enforcement agency, reporting an offense committed on the property and documented by the observations of a police officer, the city prosecutor or city attorney shall use the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1)(A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to an unlawful weapons or ammunition purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall also include on the bottom of its front page, in at least 14-point bold type, the following:

“Notice to Tenant: This notice is not a notice of eviction. However, you should know that an eviction action may soon be filed in court against you for an unlawful weapons or ammunition activity, as described above. You should call (insert name and telephone number of the city attorney or prosecutor pursuing the action) or a legal assistance provider to stop the eviction action if any of the following is applicable:

- (i) You are not the person named in this notice.
- (ii) The person named in the notice does not live with you.
- (iii) The person named in the notice has permanently moved.
- (iv) You do not know the person named in the notice.
- (v) You have any other legal defense or legal reason to stop the eviction action.

A list of legal assistance providers is attached to this notice. Some provide free legal help if you are eligible.”

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney’s fees, in an amount not to exceed six hundred dollars (\$600).

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant’s personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney’s fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) This article shall not prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to weapons or ammunition abatement. If local laws duplicate or supplement this article, this article shall be construed as providing alternative remedies and not preempting the field.

(5) This article shall not prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For purposes of this section, "unlawful weapons or ammunition purpose" means the illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, or giving away of any of the following:

(1) A firearm, as defined in subdivision ~~(b) of Section 12001~~ (a) of Section 16520 of the Penal Code.

(2) Any ammunition, as defined in ~~paragraph (2) of subdivision (b) of Section 12316 or subdivisions (a) and (b) of Section 12323~~ subdivision (b) of Section 16150 of the Penal Code or in Section 16650 or 16660 of the Penal Code.

(3) Any assault weapon, as defined in Section ~~12276, 12276.1, or 12276.5~~ 30510 or 30515 of the Penal Code.

(4) Any .50 BMG rifle, as defined in Section ~~12278~~ 30530 of the Penal Code.

(5) Any tear gas weapon, as defined in Section ~~12402~~ 17250 of the Penal Code.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall apply only to the following courts:

(1) In the County of Los Angeles, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles or the City of Long Beach.

(2) In the County of San Diego, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of San Diego.

(3) In the County of Alameda, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Oakland.

(4) In the County of Sacramento, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Sacramento.

(g)(1) The city attorney and city prosecutor of each participating jurisdiction shall provide to the Judicial Council the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) The number of cases filed by an owner, upon notice.

(C) The number of assignments executed by owners to the city attorney or city prosecutor.

(D) The number of three-day, 30-day, or 60-day notices issued by the city attorney or city prosecutor.

(E) The number of cases filed by the city attorney or city prosecutor.

(F) The number of times that an owner is joined as a defendant pursuant to this section.

(G) As to each case filed by an owner, the city attorney, or the city prosecutor, the following information:

(i) The number of judgments ordering an eviction or partial eviction, and specifying whether each was a default judgment, stipulated judgment, or judgment following trial.

(ii) The number of cases, listed by separate categories, in which the case was withdrawn or in which the tenant prevailed.

(iii) The number of other dispositions, and specifying the disposition.

(iv) The number of defendants represented by counsel.

(v) Whether the case was a trial by the court or a trial by a jury.

(vi) Whether an appeal was taken, and, if so, the result of the appeal.

(vii) The number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction.

(H) As to each case in which a notice was issued, but no case was filed, the following information:

(i) The number of instances in which a tenant voluntarily vacated.

(ii) The number of instances in which a tenant vacated a unit prior to the providing of the notice.

(iii) The number of cases in which the notice provided pursuant to subdivision (a) was erroneously sent to the tenant. This shall include a list of the reasons, if known, for the erroneously sent notice, such as reliance on information on the suspected violator's name or address that was incorrect, a clerical error, or any other reason.

(iv) The number of other resolutions, and specifying the type of resolution.

(2)(A) Information compiled pursuant to this section shall be reported annually to the Judicial Council on or before January 30 of each year.

(B) The Judicial Council shall thereafter submit a brief report to the Senate and Assembly Committees on Judiciary on or before April 15, 2009, summarizing the information collected pursuant to this section and evaluating the merits of the pilot programs established by this section. The report for this section may be combined with the Judicial Council report submitted for the pilot program established by Section 11571.1 of the Health and Safety Code.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, ~~that~~ which is enacted before January 1, 2010, deletes or extends that date.

**Comment.** Subdivision (c) of Section 3485 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Subdivision (h) is amended to make a technical revision.

**Note.** By its terms, Civil Code Section 3485 is scheduled to sunset on January 1, 2010. If that occurs, the amendment shown above will not be necessary.

## CODE OF CIVIL PROCEDURE

### **Code Civ. Proc. § 527.6 (amended). Temporary restraining order and injunction prohibiting harassment**

SEC. \_\_\_\_\_. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, “harassment” is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff.

As used in this subdivision:

(1) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. A temporary restraining order may be issued with or without notice upon an affidavit that, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. In the discretion of the court, and on a showing of good cause, a temporary restraining order or injunction, issued under this section may include other named family or household members who reside with the plaintiff. A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, or, if the court extends the time for hearing under subdivision (d), not to exceed 22 days, unless otherwise modified or terminated by the court.

(d) Within 15 days, or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(f) In a proceeding under this section if there are allegations or threats of domestic violence, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of domestic violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of domestic violence and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(g) Upon the filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be

made at least five days before the hearing. The court may for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(h) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

An order issued under this section shall, on request of the plaintiff, be served on the defendant, whether or not the defendant has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The plaintiff shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the defendant of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(i) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(j) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k)(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(l) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a plaintiff from using other existing civil remedies.

(m) The Judicial Council shall promulgate forms and instructions therefor, and rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(n) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(o) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(p) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoken in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(q)(1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process of a protective order, restraining order, or injunction to be issued, if any of the following conditions apply:

(A) The protective order, restraining order, or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The protective order, restraining order, or injunction issued pursuant to this section is based upon a credible threat of violence.

(C) The protective order, restraining order, or injunction is issued pursuant to Section 6222 of the Family Code.

(2) The Judicial Council shall prepare and develop application forms for applicants who wish to avail themselves of the services described in this subdivision.

**Comment.** Subdivisions (h) and (k) of Section 527.6 are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Code Civ. Proc. § 527.8 (amended). Temporary restraining order and injunction on behalf of employee**

SEC. \_\_\_\_ . Section 527.8 of the Code of Civil Procedure is amended to read:

527.8. (a) Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

(b) For the purposes of this section:

(1) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) For purposes of this section, the terms “employer” and “employee” mean persons defined in Section 350 of the Labor Code. “Employer” also includes a federal agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. “Employee” also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, “employee” also includes a volunteer or independent contractor who performs services for the employer at the employer’s worksite.

(e) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the plaintiff also files an affidavit that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant, and that great or irreparable harm would result to an employee. In the discretion of the court, and on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members who reside with the employee, or other persons employed at his or her workplace or workplaces.

A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(f) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the defendant is a current employee of the entity requesting the injunction, the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the defendant. If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(g) This section does not preclude either party from representation by private counsel or from appearing on his or her own behalf.

(h) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(i)(1) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(2) At the request of the plaintiff, an order issued under this section shall be served on the defendant, regardless of whether the defendant has been taken into custody, by any law enforcement officer who is present at the scene of reported unlawful violence or a credible threat of violence involving the parties to the proceedings. The plaintiff shall provide the officer with an endorsed copy of the order and proof of service that the officer shall complete and send to the issuing court.

(3) Upon receiving information at the scene of an incident of unlawful violence or a credible threat of violence that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the plaintiff or the protected person cannot produce an endorsed copy of the

order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(4) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the defendant of the terms of the order and obtain the defendant's address. The law enforcement officer shall at that time also enforce the order, but may not arrest or take the defendant into custody for acts in violation of the order that were committed prior to the verbal notice of the terms and conditions of the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and constitutes sufficient notice for the purposes of this section and for the purposes of Section 273.6 and ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code. The plaintiff shall mail an endorsed copy of the order to the defendant's mailing address provided to the law enforcement officer within one business day of the reported incident of unlawful violence or a credible threat of violence at which a verbal notice of the terms of the order was provided by a law enforcement officer.

(j)(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(k) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(l) Nothing in this section may be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

(m) The Judicial Council shall develop forms, instructions, and rules for scheduling of hearings and other procedures established pursuant to this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(n) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(o) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(p) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee of the petitioner, or stalked the employee, or acted or spoken in any other manner that has placed the employee in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(q)(1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process of a temporary restraining order or injunction to be issued pursuant to this section if either of the following conditions apply:

(A) The temporary restraining order or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The temporary restraining order or injunction issued pursuant to this section is based upon a credible threat of violence.

(2) The Judicial Council shall prepare and develop application forms for applicants who wish to avail themselves of the services described in this subdivision.

**Comment.** Subdivisions (i) and (j) of Section 527.8 are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Code Civ. Proc. § 527.9 (amended). Relinquishment of firearms by order or injunction**

SEC. \_\_\_\_ . Section 527.9 of the Code of Civil Procedure is amended to read:

527.9. (a) A person subject to a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or subject to a restraining order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, shall relinquish the firearm pursuant to this section.

(b) Upon the issuance of a protective order pursuant to subdivision (a), the court shall order the person to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of being served with the order, either by surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in ~~Section 12071~~ Sections 26700 to 26915, inclusive, of the Penal Code. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court a receipt showing the firearm was surrendered to the local law enforcement agency or sold to a licensed gun dealer within 48 hours after receiving the order.

In the event that it is necessary to continue the date of any hearing due to a request for a relinquishment order pursuant to this section, the court shall ensure that all applicable protective orders described in Section 6218 of the Family Code remain in effect or bifurcate the issues and grant the permanent restraining order pending the date of the hearing.

(c) A local law enforcement agency may charge the person subject to the order or injunction a fee for the storage of any firearm relinquished pursuant to this section. The fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, “actual cost” means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section ~~12071~~ 26700 of the Penal Code or to the person relinquishing the firearm.

(d) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (b) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent’s right under existing law to petition the court at a later date for modification of the order.

(e) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (b) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is used against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section ~~12071~~ 26700 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(f) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the

respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(g) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

**Comment.** Section 527.9 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## FAMILY CODE

### **Fam. Code § 6383 (amended). Temporary restraining order or emergency protective order issued at scene of domestic violence**

SEC. \_\_\_\_ . Section 6383 of the Family Code is amended to read:

6383. (a) A temporary restraining order or emergency protective order issued under this part shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported domestic violence involving the parties to the proceeding.

(b) The petitioner shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and transmit to the issuing court.

(c) It is a rebuttable presumption that the proof of service was signed on the date of service.

(d) Upon receiving information at the scene of a domestic violence incident that a protective order has been issued under this part, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot

produce an endorsed copy of the order, a law enforcement officer shall immediately inquire of the Department of Justice Domestic Violence Restraining Order System to verify the existence of the order.

(e) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained and the officer shall, at that time, also enforce the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(f) If a report is required under Section 13730 of the Penal Code, or if no report is required, then in the daily incident log, the officer shall provide the name and assignment of the officer notifying the respondent pursuant to subdivision (e) and the case number of the order.

(g) Upon service of the order outside of the court, a law enforcement officer shall advise the respondent to go to the local court to obtain a copy of the order containing the full terms and conditions of the order.

(h) There shall be no civil liability on the part of, and no cause of action for, false arrest or false imprisonment against any peace officer who makes an arrest pursuant to a protective or restraining order that is regular upon its face, if the peace officer in making the arrest acts in good faith and has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order. If there is more than one civil order regarding the same parties, the peace officer shall enforce the order that was issued last. If there are both civil and criminal orders regarding the same parties, the peace officer shall enforce the criminal order issued last, subject to the provisions of subdivisions (h) and (i) of Section 136.2 of the Penal Code. Nothing in this section shall be deemed to exonerate a peace officer from liability for the unreasonable use of force in the enforcement of the order. The immunities afforded by this section shall not affect the availability of any other immunity which may apply, including, but not limited to, Sections 820.2 and 820.4 of the Government Code.

**Comment.** Subdivision (e) of Section 6383 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Fam. Code § 6385 (amended). Protective order**

SEC. \_\_\_\_ . Section 6385 of the Family Code is amended to read:

6385. (a) Proof of service of the protective order is not required for the purposes of Section 6380 if the order indicates on its face that both parties were personally present at the hearing at which the order was issued and that, for the purpose of Section 6384, no proof of service is required, or if the order was served by a law enforcement officer pursuant to Section 6383.

(b) The failure of the petitioner to provide the Department of Justice with the personal descriptive information regarding the person restrained does not invalidate the protective order.

(c) There is no civil liability on the part of, and no cause of action arises against, an employee of a local law enforcement agency, a court, or the Department of Justice, acting within the scope of employment, if a person described in ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to a failure of a court to provide the notification provided for in this chapter.

**Comment.** Subdivision (c) of Section 6385 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Fam. Code § 6389 (amended). Effect of protective order on ownership, possession, purchase, and receipt of firearm**

SEC. \_\_\_\_. Section 6389 of the Family Code is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm while that protective order is in effect. Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c)(1) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the protective order. Alternatively, if no request is made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in ~~Section 12071~~ Sections 26700 to 26915, inclusive, of the Penal Code. The law enforcement officer or licensed gun dealer taking possession of the firearm pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm at the time of relinquishment. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court that issued the

protective order, within 48 hours after being served with the order, the receipt showing the firearm was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(3) The application forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall be amended to require the petitioner to describe the number, types, and locations of any firearms presently known by the petitioner to be possessed or controlled by the respondent.

(4) It is recommended that every law enforcement agency in the state develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms.

(d) If the respondent declines to relinquish possession of any firearm based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, “actual cost” means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section ~~12071~~ 26700 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent’s right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code,

or (3) another successive restraining order is used against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section ~~12071~~ 26700 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of ~~subdivision (d) of Section 12072~~ Section 27545 of the Penal Code.

(l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

**Comment.** Section 6389 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## FISH & GAME CODE

### **Fish & Game Code § 211 (amended). Restrictions on material printed pursuant to Section 210(d)**

SEC. \_\_\_\_ . Section 211 of the Fish and Game Code is amended to read:

211. (a) Material printed pursuant to subdivision (d) of Section 210 that contains advertisements shall meet all specifications prescribed by the department. The printed material shall not contain advertisements for tobacco products, alcohol, firearms and devices prohibited pursuant to ~~Sections 12020, 12220, and 12280~~ Section 32625 of the Penal Code, Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4 of Part 6 of the Penal Code, or any provision listed in Section 16590 of the Penal Code, or firearms not authorized by the commission as a legal method of sport-hunting, political statements, solicitations for membership in organizations, or any other statement, solicitation, or product advertisement that is in conflict with the purposes for which the material is produced, as determined by the commission. The printing contract shall include criteria to ensure that the public information provided in the publication is easy to reference, read, and understand.

(b) Neither the department nor the commission shall contract with private entities to print the materials described in subdivision (d) of Section 210 if the letting of those contracts will result in the elimination of civil service positions.

**Comment.** Section 211 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

### **Fish & Game Code § 2006 (amended). Loaded rifle or shotgun in vehicle or conveyance on public way**

2006. (a) It is unlawful to possess a loaded rifle or shotgun in any vehicle or conveyance or its attachments which is standing on or along or is being driven on or along any public highway or other way open to the public.

(b) A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.

(c) The provisions of this section shall not apply to peace officers or members of the armed forces of this State or the United States, while on duty or going to or returning from duty.

**Comment.** Section 2006 is amended to label the paragraphs.

The definition of “loaded” in subdivision (b) applies for purposes of this section. A different definition of “loaded” applies for purposes of armed criminal action. See Penal Code § 16840(a).

A third definition of “loaded” applies for the crime of carrying a loaded firearm in public. See Penal Code § 16840(b).

**Fish & Game Code § 3001 (amended). Unlawful take of birds or mammals**

SEC. \_\_\_\_\_. Section 3001 of the Fish and Game Code is amended to read:

3001. It is unlawful to take birds or mammals with firearms, BB devices as defined in ~~subdivision (g) of Section 12001~~ Section 16250 of the Penal Code, crossbows, or with bow and arrow when intoxicated.

**Comment.** Section 3001 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Fish & Game Code § 3801.6 (amended). Nongame birds**

SEC. \_\_\_\_\_. Section 3801.6 of the Fish and Game Code is amended to read:

3801.6. (a) Except as otherwise provided in this code or regulations made pursuant thereto, it is unlawful to possess the carcass, skin, or parts of any nongame bird. The feathers, carcass, skin, or parts of any nongame bird possessed by any person in violation of any of the provisions of this code shall be seized by the department and delivered to a California Native American tribal government or a scientific or educational institution, used by the department, or destroyed.

(b)(1) It shall be an affirmative defense to a violation of this section if the possessor of feathers, carcass, skin, or parts of a nongame bird legally acquired the feathers, carcass, skin, or parts, possesses them for tribal, cultural, or spiritual purposes, and satisfies either of the following criteria:

(A) The possessor is an enrolled member of a federally recognized Native American tribe or nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission who has, in his or her immediate possession, valid tribal identification or other irrefutable proof of current enrollment.

(B) The possessor has a certificate of degree of Indian blood issued by the United States Bureau of Indian Affairs in his or her immediate possession.

(2) Nothing in this section allows any person to sell nongame bird feathers, carcasses, skins, or parts. Native Americans meeting the affirmative defense requirements may salvage dead nongame birds so long as the person salvaging these birds does not possess, nor is in the company of any person who possesses, a firearm, BB device as defined in ~~subdivision (g) of Section 12001~~ Section 16250 of the Penal Code, trap, snare, net archery equipment, device capable of discharging a projectile, or any apparatus designed to take birds. Salvaging shall not take place by any person involved in the take of the nongame bird to be salvaged, any person present at the time of the take, or by any person who received related information originating from any person present at the time of the take of the nongame bird. Salvaging pursuant to this subdivision shall not take place if a bird has been struck with any thrown or discharged projectile, trapped, netted, caught, or snared.

(c) Notwithstanding subdivisions (a) and (b), any officer deputized pursuant to this code may interrupt any ongoing salvaging of dead nongame carcasses, feathers, skins, or parts if, in the officer's judgment, the activity causes a public disruption, safety hazard, or is detrimental to the ability of the department to prevent a possible violation of this section. The officer may seize any of the salvaged feathers, carcasses, skins, or parts and has the option of returning them to the general location from where they were salvaged.

**Comment.** Subdivision (b) of Section 3801.6 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Fish & Game Code § 10500 (amended). Taking or possessing in refuges**

SEC. \_\_\_\_ . Section 10500 of the Fish and Game Code is amended to read:

10500. Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess any bird or mammal, or part thereof, in any game refuge.

(b) To use or have in possession in a game refuge, any firearm, BB device as defined in ~~subdivision (g) of Section 12001~~ Section 16250 of the Penal Code, crossbow, bow and arrow, or any trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge any firearm or BB device or to release any arrow or crossbow bolt into any game refuge.

(c) To take or possess any species of fish or amphibian, or part thereof, in any fish refuge, or to use or have in possession in that refuge any contrivance designed to be used for catching fish.

(d) To take or possess any bird in, or to discharge any firearm or BB device, or to release any arrow or crossbow bolt within or into, any waterfowl refuge.

(e) To take or possess any quail in a quail refuge.

(f) To take or possess any invertebrate or specimen of marine plant life in a marine life refuge.

(g) To take or possess any clam in a clam refuge or to possess in ~~such a~~ clam refuge any instrument or apparatus capable of being used to dig clams.

**Comment.** Subdivision (b) of Section 10500 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Subdivision (g) is amended to make a technical revision.

**Fish & Game Code § 10506 (amended). Travel through game refuge**

SEC. \_\_\_\_ . Section 10506 of the Fish and Game Code is amended to read:

10506. Nothing in this code prohibits the possession of firearms, BB devices as defined in ~~subdivision (g) of Section 12001~~ Section 16250 of the Penal Code, crossbows and bolts, or bows and arrows by persons when traveling through any game refuges when the firearms are taken apart or encased and unloaded and the bows are unstrung or stored separately from any arrow or bolt. When the traveling is done on a route other than a public highway or other public thoroughfare or right of way, notice shall be given to the department at least 24 hours before that

traveling. The notice shall give the name and address of the person intending to travel through the refuge, the name of the refuge, the approximate route, and the approximate time when that person intends to travel through the refuge.

**Comment.** Section 10506 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## GOVERNMENT CODE

### **Gov't Code § 6254 (amended). Records not required to be disclosed**

SEC. \_\_\_\_ . Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the California Emergency Management Agency, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security

files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by

Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions,

opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u)(1) Information contained in applications for licenses to carry firearms issued pursuant to Section ~~42050~~ 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section ~~12050~~ 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section ~~12050~~ 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2)(A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract are open to inspection pursuant to paragraph (3).

(w)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2)(A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations,

impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Emergency Management Agency for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

**Comment.** Subdivision (u) of Section 6254 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Gov't Code § 6276.18 (amended). Partial list of records and information exempt from Public Records Act**

SEC. \_\_\_\_ . Section 6276.18 of the Government Code is amended to read:

6276.18. Family counselor and client, confidential information, Section 4982, Business and Professions Code.

Family Court, records, Section 1818, Family Law Code.

Farm product processor license, confidentiality of financial statements, Section 55523.6, Food and Agricultural Code.

Farm product processor licensee, confidentiality of grape purchases, Section 55601.5, Food and Agricultural Code.

Fee payer information, prohibition against disclosure by Board of Equalization and others, Section 55381, Revenue and Taxation Code.

Financial institutions, issuance of securities, reports and records of state agencies, subdivision (d), Section 6254, Government Code.

Financial records, confidentiality of, Sections 7470, 7471, and 7473, Government Code.

Financial statements of insurers, confidentiality of information received, Section 925.3, Insurance Code.

Financial statements and questionnaires, of prospective bidders for the state, confidentiality of, Section 10165, Public Contract Code.

Financial statements and questionnaires, of prospective bidders for California State University contracts, confidentiality of, Section 10763, Public Contract Code.

Firearm license applications, subdivision (u), Section 6254, Government Code.

Firearm sale or transfer, confidentiality of records, ~~Section 12082~~ Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, Penal Code.

Firefighters Service Award, confidentiality of data filed with the Board of Administration of the Public Employees' Retirement System, Section 50955, Government Code.

Fish and wildlife law enforcement agreements with other states, confidentiality of information, Section 391, Fish and Game Code.

Fish and wildlife taken illegally, public record status of records of case, Section 2584, Fish and Game Code.

Food stamps, disclosure of information, Section 18909, Welfare and Institutions Code.

Foreign marketing of agricultural products, confidentiality of financial information, Section 58577, Food and Agricultural Code.

Forest fires, anonymity of informants, Section 4417, Public Resources Code.

Foster homes, identifying information, Section 1536, Health and Safety Code.

Franchise Tax Board, access to Franchise Tax Board information by the State Department of Social Services, Section 11025, Welfare and Institutions Code.

Franchise Tax Board, auditing, confidentiality of, Section 90005, Government Code.

Franchises, applications, and reports filed with Commissioner of Corporations, disclosure and withholding from public inspection, Section 31504, Corporations Code.

Fur dealer licensee, confidentiality of records, Section 4041, Fish and Game Code.

**Comment.** Section 6276.18 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Gov't Code § 53071.5 (amended). Imitation firearms**

SEC. \_\_\_\_\_. Section 53071.5 of the Government Code is amended to read:

53071.5. By the enforcement of this section, the Legislature occupies the whole field of regulation of the manufacture, sale, or possession of imitation firearms, as defined in ~~Section 12550~~ subdivision (a) of Section 16700 of the Penal Code, and that ~~section~~ subdivision shall preempt and be exclusive of all regulations relating to the manufacture, sale, or possession of imitation firearms, including regulations governing the manufacture, sale, or possession of BB devices and air rifles described in ~~subdivision (g) of Section 12001~~ Section 16250 of the Penal Code.

**Comment.** Section 53071.5 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## HEALTH & SAFETY CODE

### **Health & Safety Code § 1257.7 (amended). Security and safety assessment and security plan by hospitals**

SEC. \_\_\_\_ . Section 1257.7 of the Health and Safety Code is amended to read:

1257.7. (a) By July 1, 1995, all hospitals licensed pursuant to subdivisions (a), (b), and (f) of Section 1250 shall conduct a security and safety assessment and, using the assessment, develop a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. The security and safety assessment shall examine trends of aggressive or violent behavior at the facility. These hospitals shall track incidents of aggressive or violent behavior as part of the quality assessment and improvement program and for the purposes of developing a security plan to deter and manage further aggressive or violent acts of a similar nature. The plan may include, but shall not be limited to, security considerations relating to all of the following:

- (1) Physical layout.
- (2) Staffing.
- (3) Security personnel availability.
- (4) Policy and training related to appropriate responses to violent acts.

In developing this plan, the hospital shall consider any guidelines or standards on violence in health care facilities issued by the state department, the Division of Occupational Safety and Health, and the federal Occupational Safety and Health Administration. As part of the security plan, a hospital shall adopt security policies including, but not limited to, personnel training policies designed to protect personnel, patients, and visitors from aggressive or violent behavior.

(b) The individual or members of a hospital committee responsible for developing the security plan shall be familiar with all of the following:

- (1) The role of security in hospital operations.
- (2) Hospital organization.
- (3) Protective measures, including alarms and access control.
- (4) The handling of disturbed patients, visitors, and employees.
- (5) Identification of aggressive and violent predicting factors.
- (6) Hospital safety and emergency preparedness.

(7) The rudiments of documenting and reporting crimes, including, by way of example, not disturbing a crime scene.

(c) The hospital shall have sufficient personnel to provide security pursuant to the security plan developed pursuant to subdivision (a). Persons regularly assigned to provide security in a hospital setting shall be trained regarding the role of security in hospital operations, including the identification of aggressive and violent predicting factors, and management of violent disturbances.

(d) Any act of assault, as defined in Section 240 of the Penal Code, or battery, as defined in Section 242 of the Penal Code, that results in injury or involves the use of a firearm or other dangerous weapon, against any on-duty hospital personnel shall be reported to the local law enforcement agency within 72 hours of the incident. Any other act of assault, as defined in Section 240 of the Penal Code, or battery as defined in Section 242 of the Penal Code, against any on-duty hospital personnel may be reported to the local law enforcement agency within 72 hours of the incident. No health facility or employee of a health facility who reports a known or suspected instance of assault or battery pursuant to this section shall be civilly or criminally liable for any report required by this section. No health facility or employee of a health facility who reports a known or suspected instance of assault or battery that is authorized, but not required, by this section, shall be civilly or criminally liable for the report authorized by this section unless it can be proven that a false report was made and the health facility or its employee knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any health facility or employee of a health facility who makes a report known to be false or with reckless disregard of the truth or falsity of the report shall be liable for any damages caused. Any individual knowingly interfering with or obstructing the lawful reporting process shall be guilty of a misdemeanor. “Dangerous weapon,” as used in this section, means any weapon the possession or concealed carrying of which is prohibited by ~~Section 12020~~ any provision listed in Section 16590 of the Penal Code.

**Comment.** Subdivision (d) of Section 1257.7 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Health & Safety Code § 12000 (amended). “Explosives”**

SEC. \_\_\_\_ . Section 12000 of the Health and Safety Code is amended to read:

12000. For the purposes of this part, “explosives” means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion, and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. “Explosives” includes, but is not limited to, any explosives as defined in Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations, and any of the following:

(a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.

(b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as classified by the United States Department of Transportation.

(c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5 explosives by the United States Department of Transportation.

(d) Any material designated as an explosive by the State Fire Marshal. The designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation pursuant to provisions of Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations that define explosives.

(e) Certain division 1.4 explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

(f) For the purposes of this part, “explosives” does not include any destructive device, as defined in Section ~~12301~~ 16460 of the Penal Code, nor does it include ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.

**Comment.** Subdivision (f) of Section 12000 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Health & Safety Code § 12101 (amended). Actions requiring permit**

SEC. \_\_\_\_ . Section 12101 of the Health and Safety Code is amended to read:

12101. (a) No person shall do any one of the following without first having made application for and received a permit in accordance with this section:

- (1) Manufacture explosives.
- (2) Sell, furnish, or give away explosives.
- (3) Receive, store, or possess explosives.
- (4) Transport explosives.
- (5) Use explosives.
- (6) Operate a terminal for handling explosives.

(7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority.

(c)(1) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a), is to be conducted.

(2) If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, the person shall first present the permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. The issuing authority may include any reasonable restrictions or conditions which the authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within the authority's jurisdiction. If, for any reason, the issuing authority refuses to endorse the permit previously issued in the area of intended use or storage, the authority shall immediately notify both the issuing authority who issued the permit and the Department of Justice of the fact of the refusal and the reasons for the refusal.

(3) Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first be satisfied that the person receiving the explosives has a permit valid for that purpose. When the permit to receive explosives indicates that the intended storage or use of the explosives is other than in that area in which the permittee receives the explosives, the person who sells, gives away, delivers, or otherwise disposes of the explosives shall insure that the permit has been properly endorsed by a local issuing authority and, further, shall immediately send a copy of the record of sale to the issuing authority who originally issued the permit in the area of intended storage or use. The issuing authority in the area in which the explosives are received or sold shall not issue a permit for the possession, use, or storage of explosives in an area not within the authority's jurisdiction.

(d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive the explosives shall be obtained from the State Fire Marshal.

(e) A permit may include any restrictions or conditions which the issuing authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives.

(f) A permit shall remain valid only until the time when the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one year from the date of issuance of the permit.

(g) Any valid permit which authorizes the performance of any act shall not constitute authorization for the performance of any act not stipulated in the permit.

(h) An issuing authority shall not issue a permit authorizing the transportation of explosives pursuant to this section if the display of placards for that transportation is required by Section 27903 of the Vehicle Code, unless the driver possesses a license for the transportation of hazardous materials issued pursuant to Division 14.1 (commencing with Section 32000) of the Vehicle Code, or the explosives are a hazardous waste or extremely hazardous waste, as defined in Sections 25117 and

25115 of the Health and Safety Code, and the transporter is currently registered as a hazardous waste hauler pursuant to Section 25163 of the Health and Safety Code.

(i) An issuing authority shall not issue a permit pursuant to this section authorizing the handling or storage of division 1.1, 1.2, or 1.3 explosives in a building, unless the building has caution placards which meet the standards established pursuant to subdivision (g) of Section 12081.

(j)(1) A permit shall not be issued to a person who meets any of the following criteria:

(A) He or she has been convicted of a felony.

(B) He or she is addicted to a narcotic drug.

(C) He or she is in a class prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) For purposes of determining whether a person meets any of the criteria set forth in this subdivision, the issuing authority shall obtain two sets of fingerprints on prescribed cards from all persons applying for a permit under this section and shall submit these cards to the Department of Justice. The Department of Justice shall utilize the fingerprint cards to make inquiries both within this state and to the Federal Bureau of Investigation regarding the criminal history of the applicant identified on the fingerprint card.

This paragraph does not apply to any person possessing a current certificate of eligibility issued pursuant to ~~paragraph (4) of subdivision (a) of Section 12071~~ subdivisions (a) to (c), inclusive, of Section 26710 of the Penal Code or to any holder of a dangerous weapons permit or license issued pursuant to Section 12095, 12230, 12250, 12286, or 12305 31000, 32650, or 33300 of the Penal Code, or pursuant to Sections 18900 to 18910, inclusive, or Sections 32700 to 32720, inclusive, of the Penal Code.

(k) An issuing authority shall inquire with the Department of Justice for the purposes of determining whether a person who is applying for a permit meets any of the criteria specified in subdivision (j). The Department of Justice shall determine whether a person who is applying for a permit meets any of the criteria specified in subdivision (j) and shall either grant or deny clearance for a permit to be issued pursuant to the determination. The Department of Justice shall not disclose the contents of a person's records to any person who is not authorized to receive the information in order to ensure confidentiality.

**Comment.** Subdivision (j) of Section 12101 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Health & Safety Code § 12540 (amended). Application of part**

SEC. \_\_\_\_ . Section 12540 of the Health and Safety Code is amended to read:

12540. The provisions of this part shall not apply to any of the following:

(a) Explosives regulated under Part 1 (commencing with Section 12000) of Division 11.

(b) Arms and handguns defined as firearms by the Federal Gun Control Act of 1968, as well as such devices and weapons classified under ~~Section 12020 or 12301~~ 16460 of the Penal Code or any provision listed in Section 16590 of the Penal Code, including blank cartridge pistols of the type used at sporting events or theatrical productions.

(c) Research or experiments with rockets or missiles or the production or transportation of rockets or missiles by the Department of Defense of the United States, or by any agency or organization acting pursuant to a contract with the Department of Defense for the development and production of rockets or missiles.

(d) Paper caps which contain less than 0.25 grain of pyrotechnic composition per unit load.

**Comment.** Subdivision (b) of Section 12540 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Health & Safety Code § 12756 (amended). State Fire Marshall regulations and flamethrowing devices**

SEC. \_\_\_\_ . Section 12756 of the Health and Safety Code is amended to read:

12756. The State Fire Marshal shall adopt regulations to administer this part and establish standards for the background investigation of an applicant for, and holder of, a flamethrowing device permit, and for the use, storage, and transportation of a flamethrowing device. In adopting these regulations, the State Fire Marshal shall consult with the Department of Justice regarding regulations for the use and possession of destructive devices (Chapter 12.5 (commencing with Section 970) of Division 1 of Title 11 of the California Code of Regulations). These regulations for the use and possession of destructive devices may provide suggestions for potential methods to utilize in developing standards and shall serve as guidance only. At a minimum, the regulations adopted by the State Fire Marshal shall require a permitholder to possess a current, valid certificate of eligibility issued by the Department of Justice pursuant to ~~paragraph (4) of subdivision (a) of Section 12071~~ subdivisions (a) to (c), inclusive, of Section 26710 of the Penal Code.

**Comment.** Section 12756 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Health & Safety Code § 12757 (amended). Permit to use and possess flamethrowing device**

SEC. \_\_\_\_ . Section 12757 of the Health and Safety Code is amended to read:

12757. The State Fire Marshal may issue or renew a permit to use and possess a flamethrowing device only if all of the following conditions are met:

(a) The applicant or permitholder is not addicted to any controlled substance.

(b) The applicant or permitholder possesses a current, valid certificate of eligibility issued by the Department of Justice pursuant to ~~paragraph (4) of subdivision (a) of Section 12071~~ subdivisions (a) to (c), inclusive, of Section 26710 of the Penal Code.

(c) The applicant or permit holder meets the other standards specified in regulations adopted pursuant to Section 12756.

**Comment.** Subdivision (b) of Section 12757 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## PENAL CODE

### **Penal Code § 136.2 (amended). Orders upon belief of, or reasonable likelihood of, harm, intimidation, or dissuasion of victim or witness**

SEC. \_\_\_\_ . Section 136.2 of the Penal Code is amended to read:

136.2. (a) Except as provided in subdivision (c), upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, any court with jurisdiction over a criminal matter may issue orders including, but not limited to, the following:

(1) Any order issued pursuant to Section 6320 of the Family Code.

(2) An order that a defendant shall not violate any provision of Section 136.1.

(3) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, shall not violate any provisions of Section 136.1.

(4) An order that any person described in this section shall have no communication whatsoever with any specified witness or any victim, except through an attorney under any reasonable restrictions that the court may impose.

(5) An order calling for a hearing to determine if an order as described in paragraphs (1) to (4), inclusive, should be issued.

(6) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or a witness, or both, or for immediate family members of a victim or a witness who reside in the same household as the victim or witness or within reasonable proximity of the victim's or witness' household, as determined by the court. The order shall not be made without the consent of the law enforcement agency except for limited and specified periods of time and upon an express finding by the court of a clear and present danger of harm to the victim or witness or immediate family members of the victim or witness.

For purposes of this paragraph, "immediate family members" include the spouse, children, or parents of the victim or witness.

(7)(A) Any order protecting victims of violent crime from all contact by the defendant, or contact, with the intent to annoy, harass, threaten, or commit acts of violence, by the defendant. The court or its designee shall transmit orders made under this paragraph to law enforcement personnel within one business day of the issuance, modification, extension, or termination of the order, pursuant to subdivision (a) of Section 6380 of the Family Code. It is the responsibility of the court to transmit the modification, extension, or termination orders made under

this paragraph to the same agency that entered the original protective order into the Domestic Violence Restraining Order System.

(B)(i) If a court does not issue an order pursuant to subparagraph (A) in a case in which the defendant is charged with a crime of domestic violence as defined in Section 13700, the court on its own motion shall consider issuing a protective order upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, that provides as follows:

(I) The defendant shall not own, possess, purchase, receive, or attempt to purchase or receive, a firearm while the protective order is in effect.

(II) The defendant shall relinquish any firearms that he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(ii) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm while this protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021 of the Penal Code~~ Section 29825.

(C) Any order issued, modified, extended, or terminated by a court pursuant to this paragraph shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(b) Any person violating any order made pursuant to paragraphs (1) to (7), inclusive, of subdivision (a) may be punished for any substantive offense described in Section 136.1, or for a contempt of the court making the order. A finding of contempt shall not be a bar to prosecution for a violation of Section 136.1. However, any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of an offense described in Section 136.1. Any conviction or acquittal for any substantive offense under Section 136.1 shall be a bar to a subsequent punishment for contempt arising out of the same act.

(c)(1) Notwithstanding subdivisions (a) and (e), an emergency protective order issued pursuant to Chapter 2 (commencing with Section 6250) of Part 3 of Division 10 of the Family Code or Section 646.91 of the Penal Code shall have precedence in enforcement over any other restraining or protective order, provided the emergency protective order meets all of the following requirements:

(A) The emergency protective order is issued to protect one or more individuals who are already protected persons under another restraining or protective order.

(B) The emergency protective order restrains the individual who is the restrained person in the other restraining or protective order specified in subparagraph (A).

(C) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in subparagraph (A).

(2) An emergency protective order that meets the requirements of paragraph (1) shall have precedence in enforcement over the provisions of any other restraining or protective order only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained person.

(d)(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021 of the Penal Code~~ Section 29825.

(e)(1) In all cases where the defendant is charged with a crime of domestic violence, as defined in Section 13700, the court shall consider issuing the above-described orders on its own motion. All interested parties shall receive a copy of those orders. In order to facilitate this, the court's records of all criminal cases involving domestic violence shall be marked to clearly alert the court to this issue.

(2) In those cases in which a complaint, information, or indictment charging a crime of domestic violence, as defined in Section 13700, has been issued, a restraining order or protective order against the defendant issued by the criminal court in that case has precedence in enforcement over any civil court order against the defendant, unless a court issues an emergency protective order pursuant to Chapter 2 (commencing with Section 6250) of Part 3 of Division 10 of the Family Code or Section 646.91 of the Penal Code, in which case the emergency protective order shall have precedence in enforcement over any other restraining or protective order, provided the emergency protective order meets the following requirements:

(A) The emergency protective order is issued to protect one or more individuals who are already protected persons under another restraining or protective order.

(B) The emergency protective order restrains the individual who is the restrained person in the other restraining or protective order specified in subparagraph (A).

(C) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in subparagraph (A).

(3) Custody and visitation with respect to the defendant and his or her minor children may be ordered by a family or juvenile court consistent with the protocol established pursuant to subdivision (f), but if ordered after a criminal protective order has been issued pursuant to this section, the custody and visitation order shall make reference to, and acknowledge the precedence of enforcement of, any appropriate criminal protective order. On or before July 1, 2006, the Judicial Council shall modify the criminal and civil court forms consistent with this subdivision.

(f) On or before January 1, 2003, the Judicial Council shall promulgate a protocol, for adoption by each local court in substantially similar terms, to provide for the timely coordination of all orders against the same defendant and in favor of the same named victim or victims. The protocol shall include, but shall not be limited to, mechanisms for assuring appropriate communication and information sharing between criminal, family, and juvenile courts concerning orders and cases that involve the same parties, and shall permit a family or juvenile court order to coexist with a criminal court protective order subject to the following conditions:

(1) Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a “no contact order” issued by a criminal court.

(2) Safety of all parties shall be the courts’ paramount concern. The family or juvenile court shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code.

(g) On or before January 1, 2003, the Judicial Council shall modify the criminal and civil court protective order forms consistent with this section.

(h) In any case in which a complaint, information, or indictment charging a crime of domestic violence, as defined in Section 13700, has been filed, the court may consider, in determining whether good cause exists to issue an order under paragraph (1) of subdivision (a), the underlying nature of the offense charged, and the information provided to the court pursuant to Section 273.75.

**Comment.** Subdivisions (a) and (d) of Section 136.2 are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 139 (amended). Punishment for threat to witness or victim by convicted felon**

SEC. \_\_\_\_ . Section 139 of the Penal Code is amended to read:

139. (a) Except as provided in Sections 71 and 136.1, any person who has been convicted of any felony offense specified in ~~Section 12021.4~~ Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 who willfully and maliciously communicates to a witness to, or a victim of, the crime for which the person was convicted, a credible threat to use force or violence upon that person or that person’s immediate family, shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison for two, three, or four years.

(b) Any person who is convicted of violating subdivision (a) who subsequently is convicted of making a credible threat, as defined in subdivision (c), which constitutes a threat against the life of, or a threat to cause great bodily injury to, a person described in subdivision (a), shall be sentenced to consecutive terms of imprisonment as prescribed in Section 1170.13.

(c) As used in this section, “a credible threat” is a threat made with the intent and the apparent ability to carry out the threat so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(d) The present incarceration of the person making the threat shall not be a bar to prosecution under this section.

(e) As used in this section, “malice,” “witness,” and “victim” have the meanings given in Section 136.

**Comment.** Subdivision (a) of Section 139 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 166 (amended). Contempt of court**

SEC. \_\_\_\_ . Section 166 of the Penal Code is amended to read:

166. (a) Except as provided in subdivisions (b), (c), and (d), every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:

(1) Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in the immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due to its authority.

(2) Behavior as specified in paragraph (1) committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.

(3) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.

(4) Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by any court, including orders pending trial.

(5) Resistance willfully offered by any person to the lawful order or process of any court.

(6) The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question.

(7) The publication of a false or grossly inaccurate report of the proceedings of any court.

(8) Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of the court, any affidavit or testimony or representation of any kind, verbal or written, in aggravation or mitigation of the punishment to be imposed upon the prisoner, except as provided in this code.

(b)(1) Any person who is guilty of contempt of court under paragraph (4) of subdivision (a) by willfully contacting a victim by telephone or mail, or directly, and who has been previously convicted of a violation of Section 646.9 shall be punished by imprisonment in a county jail for not more than one year, by a fine of five thousand dollars (\$5,000), or by both that fine and imprisonment.

(2) For the purposes of sentencing under this subdivision, each contact shall constitute a separate violation of this subdivision.

(3) The present incarceration of a person who makes contact with a victim in violation of paragraph (1) is not a defense to a violation of this subdivision.

(c)(1) Notwithstanding paragraph (4) of subdivision (a), any willful and knowing violation of any protective order or stay-away court order issued pursuant to Section 136.2, in a pending criminal proceeding involving domestic violence, as defined in Section 13700, or issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence, as defined in Section 13700, or elder or dependent adult abuse, as defined in Section 368, or that is an order described in paragraph (3), shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) If a violation of paragraph (1) results in a physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(3) Paragraphs (1) and (2) apply to the following court orders:

(A) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(B) An order excluding one party from the family dwelling or from the dwelling of the other.

(C) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the orders described in paragraph (1).

(4) A second or subsequent conviction for a violation of any order described in paragraph (1) occurring within seven years of a prior conviction for a violation of any of those orders and involving an act of violence or “a credible threat” of violence, as provided in subdivisions (c) and (d) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months or two or three years.

(5) The prosecuting agency of each county shall have the primary responsibility for the enforcement of the orders described in paragraph (1).

(d)(1) A person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(2) A person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(e)(1) If probation is granted upon conviction of a violation of subdivision (c), the court shall impose probation consistent with the provisions of Section 1203.097 of the Penal Code.

(2) If probation is granted upon conviction of a violation of subdivision (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars (\$1,000).

(B) That the defendant provide restitution to reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(3) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision or subdivision (c), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support.

(4) If the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of subdivision (c), the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents required by this subdivision, until all separate property of the offending spouse is exhausted.

(5) Any person violating any order described in subdivision (c) may be punished for any substantive offenses described under Section 136.1 or 646.9. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1 or 646.9. However, any person held in contempt for a violation of subdivision (c) shall be entitled to credit for any punishment imposed as a result of that violation against any sentence imposed upon conviction of an offense described in Section 136.1 or 646.9. Any conviction or acquittal for any substantive offense under Section 136.1 or 646.9 shall be a bar to a subsequent punishment for contempt arising out of the same act.

**Comment.** Subdivision (d) of Section 166 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 171b (amended). Unauthorized possession of weapons in public building or at public meeting**

SEC. \_\_\_\_. Section 171b of the Penal Code is amended to read:

171b. (a) Any person who brings or possesses within any state or local public building or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2

of, the Government Code, any of the following is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison:

(1) Any firearm.

(2) Any deadly weapon described in ~~Section 653k or 12020~~ Section 17235 or in any provision listed in Section 16590.

(3) Any knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands.

(4) Any unauthorized tear gas weapon.

(5) Any taser or stun gun, as defined in Section 244.5.

(6) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun or paint gun.

(b) Subdivision (a) shall not apply to, or affect, any of the following:

(1) A person who possesses weapons in, or transports weapons into, a court of law to be used as evidence.

(2)(A) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace officer with authorization to carry concealed weapons as described in ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(B) Notwithstanding subparagraph (A), subdivision (a) shall apply to any person who brings or possesses any weapon specified therein within any courtroom if he or she is a party to an action pending before the court.

(3) A person holding a valid license to carry the firearm pursuant to ~~Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4~~ Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6.

(4) A person who has permission to possess that weapon granted in writing by a duly authorized official who is in charge of the security of the state or local government building.

(5) A person who lawfully resides in, lawfully owns, or is in lawful possession of, that building with respect to those portions of the building that are not owned or leased by the state or local government.

(6) A person licensed or registered in accordance with, and acting within the course and scope of, Chapter 11.5 (commencing with Section 7512) or Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code who has been hired by the owner or manager of the building if the person has permission pursuant to paragraph (5).

(7)(A) A person who, for the purpose of sale or trade, brings any weapon that may otherwise be lawfully transferred, into a gun show conducted pursuant to Sections 12071.1 and 12071.4 Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) of Chapter 3 of Division 6 of Title 4 of Part 6.

(B) A person who, for purposes of an authorized public exhibition, brings any weapon that may otherwise be lawfully possessed, into a gun show conducted pursuant to Sections 12071.1 and 12071.4 Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) of Chapter 3 of Division 6 of Title 4 of Part 6.

(c) As used in this section, “state or local public building” means a building that meets all of the following criteria:

(1) It is a building or part of a building owned or leased by the state or local government, if state or local public employees are regularly present for the purposes of performing their official duties. A state or local public building includes, but is not limited to, a building that contains a courtroom.

(2) It is not a building or facility, or a part thereof, that is referred to in Section 171c, 171d, 626.9, 626.95, or 626.10 of this code, or in Section 18544 of the Elections Code.

(3) It is a building not regularly used, and not intended to be used, by state or local employees as a place of residence.

**Comment.** Subdivisions (a) and (b) of Section 171b are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 171c (amended). Punishment for bringing or possessing loaded firearm within State Capitol and other specified locations**

SEC. \_\_\_\_. Section 171c of the Penal Code is amended to read:

171c. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by ~~any such officer~~ one of those officers to assist in making arrests or preserving the peace while ~~he is~~ actually engaged in assisting ~~such that~~ that officer, a member of the military forces of this state or the United States engaged in the performance of ~~his~~ duties, or a person holding a valid license to carry the firearm pursuant to ~~Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4~~ Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, who brings a loaded firearm into, or possesses a loaded firearm within, the State Capitol, any legislative office, any office of the Governor or other constitutional officer, or any hearing room in which any committee of the Senate or Assembly is conducting a hearing, or upon the grounds of the State Capitol, which is bounded by 10th, L, 15th, and N Streets in the City of Sacramento, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of not more than one thousand dollars

(\$1,000), or both ~~such~~ that imprisonment and fine, or by imprisonment in the state prison.

**Comment.** Section 171c is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. The section is also amended to make it gender-neutral and to make other technical revisions.

**Penal Code § 171d (amended). Punishment for bringing or possessing loaded firearm within Governor's Mansion and other specified locations**

SEC. \_\_\_\_\_. Section 171d of the Penal Code is amended to read:

171d. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by that officer to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to ~~Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4~~ Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, the Governor or a member of his or her immediate family or a person acting with his or her permission with respect to the Governor's Mansion or any other residence of the Governor, any other constitutional officer or a member of his or her immediate family or a person acting with his or her permission with respect to the officer's residence, or a Member of the Legislature or a member of his or her immediate family or a person acting with his or her permission with respect to the Member's residence, shall be punished by imprisonment in a county jail for not more than one year, by fine of not more than one thousand dollars (\$1,000), or by both the fine and imprisonment, or by imprisonment in the state prison, if he or she does any of the following:

(a) Brings a loaded firearm into, or possesses a loaded firearm within, the Governor's Mansion, or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

(b) Brings a loaded firearm upon, or possesses a loaded firearm upon, the grounds of the Governor's Mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

**Comment.** Section 171d is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 171.5 (amended). Items prohibited in airports and passenger terminals**

SEC. \_\_\_\_\_. Section 171.5 of the Penal Code is amended to read:

171.5. (a) For purposes of this section:

(1) “Airport” means an airport, with a secured area, that regularly serves an air carrier holding a certificate issued by the United States Secretary of Transportation.

(2) “Passenger vessel terminal” means only that portion of a harbor or port facility, as described in Section 105.105(a)(2) of Title 33 of the Code of Federal Regulations, with a secured area that regularly serves scheduled commuter or passenger operations.

(3) “Sterile area” means a portion of an airport defined in the airport security program to which access generally is controlled through the screening of persons and property, as specified in Section 1540.5 of Title 49 of the Code of Federal Regulations, or a portion of any passenger vessel terminal to which, pursuant to the requirements set forth in Sections 105.255(a)(1), 105.255(c)(1), and 105.260(a) of Title 33 of the Code of Federal Regulations, access is generally controlled in a manner consistent with the passenger vessel terminal’s security plan and the MARSEC level in effect at the time.

(b) It is unlawful for any person to knowingly possess, within any sterile area of an airport or a passenger vessel terminal, any of the items listed in subdivision (c).

(c) The following items are unlawful to possess as provided in subdivision (b):

(1) Any firearm.

(2) Any knife with a blade length in excess of four inches, the blade of which is fixed, or is capable of being fixed, in an unguarded position by the use of one or two hands.

(3) Any box cutter or straight razor.

(4) Any metal military practice hand grenade.

(5) Any metal replica hand grenade.

(6) Any plastic replica hand grenade.

(7) Any imitation firearm as defined in Section 417.4.

(8) Any frame, receiver, barrel, or magazine of a firearm.

(9) Any unauthorized tear gas weapon.

(10) Any taser or stun gun, as defined in Section 244.5.

(11) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun or paint gun.

(12) Any ammunition as defined in Section ~~12316~~ 16150.

(d) Subdivision (b) shall not apply to, or affect, any of the following:

(1) A duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace officer with authorization to carry concealed weapons as described in ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(2) A person who has authorization to possess a weapon specified in subdivision (c), granted in writing by an airport security coordinator who is designated as specified in Section 1542.3 of Title 49 of the Code of Federal Regulations, and who is responsible for the security of the airport.

(3) A person, including an employee of a licensed contract guard service, who has authorization to possess a weapon specified in subdivision (c) granted in writing by a person discharging the duties of Facility Security Officer or Company Security Officer pursuant to an approved United States Coast Guard facility security plan, and who is responsible for the security of the passenger vessel terminal.

(e) A violation of this section is punishable by imprisonment in a county jail for a period not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(f) 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 that is punishable in different ways by this and any other provision of law shall not be punished under more than one provision.

(g) Nothing in this section is intended to affect existing state or federal law regarding the transportation of firearms on airplanes in checked luggage, or the possession of the items listed in subdivision (c) in areas that are not “sterile areas.”

**Comment.** Subdivisions (c) and (d) of Section 171.5 are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 186.22 (amended). Promotion, furtherance, or assistance in felonious conduct by gang member**

SEC. \_\_\_\_\_. Section 186.22 of the Penal Code is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

(b)(1) Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished as follows:

(A) Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court’s discretion.

(B) If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

(C) If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

(2) If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

(3) The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentencing enhancements on the record at the time of the sentencing.

(4) Any person who is convicted of a felony enumerated in this paragraph committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of:

(A) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.

(B) Imprisonment in the state prison for 15 years, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a violation of Section 12022.55.

(C) Imprisonment in the state prison for seven years, if the felony is extortion, as defined in Section 519; or threats to victims and witnesses, as defined in Section 136.1.

(5) Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of or in association with, any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the

state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, “pattern of criminal gang activity” means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section ~~42034~~ 26100.

(7) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(8) The intimidation of witnesses and victims, as defined in Section 136.1.

(9) Grand theft, as defined in subdivision (a) or (c) of Section 487.

(10) Grand theft of any firearm, vehicle, trailer, or vessel.

(11) Burglary, as defined in Section 459.

(12) Rape, as defined in Section 261.

(13) Looting, as defined in Section 463.

(14) Money laundering, as defined in Section 186.10.

(15) Kidnapping, as defined in Section 207.

(16) Mayhem, as defined in Section 203.

(17) Aggravated mayhem, as defined in Section 205.

(18) Torture, as defined in Section 206.

(19) Felony extortion, as defined in Sections 518 and 520.

(20) Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

(21) Carjacking, as defined in Section 215.

(22) The sale, delivery, or transfer of a firearm, as defined in ~~Section 12072~~ Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(23) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of ~~paragraph (1) of subdivision (a) of Section 12101~~ Section 29610.

(24) Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

(25) Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

(26) Felony theft of an access card or account information, as defined in Section 484e.

(27) Counterfeiting, designing, using, attempting to use an access card, as defined in Section 484f.

(28) Felony fraudulent use of an access card or account information, as defined in Section 484g.

(29) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

(30) Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

(31) Prohibited possession of a firearm in violation of ~~Section 12024~~ Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(32) Carrying a concealed firearm in violation of ~~Section 12025~~ 25400.

(33) Carrying a loaded firearm in violation of ~~Section 12031~~ 25850.

(f) As used in this chapter, “criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(h) Notwithstanding any other provision of law, for each person committed to the Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Division of Juvenile Facilities, pursuant to Section 912.5 of the Welfare and Institutions Code.

(i) In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

**Comment.** Subdivision (e) of Section 186.22 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 186.22a (amended). Building or place where gang commits offense**

SEC. \_\_\_\_ . Section 186.22a of the Penal Code is amended to read:

186.22a. (a) Every building or place used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (e) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place wherein or upon which that criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to subdivision (a), including an action filed by the Attorney General, shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, except that all of the following shall apply:

(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.

(2) No order of eviction or closure may be entered.

(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.

(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address.

(c) Whenever an injunction is issued pursuant to subdivision (a), or Section 3479 of the Civil Code, to abate gang activity constituting a nuisance, the Attorney General or any district attorney or any prosecuting city attorney may maintain an action for money damages on behalf of the community or neighborhood injured by

that nuisance. Any money damages awarded shall be paid by or collected from assets of the criminal street gang or its members. Only members of the criminal street gang who created, maintained, or contributed to the creation or maintenance of the nuisance shall be personally liable for the payment of the damages awarded. In a civil action for damages brought pursuant to this subdivision, the Attorney General, district attorney, or city attorney may use, but is not limited to the use of, the testimony of experts to establish damages suffered by the community or neighborhood injured by the nuisance. The damages recovered pursuant to this subdivision shall be deposited into a separate segregated fund for payment to the governing body of the city or county in whose political subdivision the community or neighborhood is located, and that governing body shall use those assets solely for the benefit of the community or neighborhood that has been injured by the nuisance.

(d) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to subdivisions (a) and (b).

(e) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(f)(1) Any firearm, ammunition which may be used with the firearm, or any deadly or dangerous weapon which is owned or possessed by a member of a criminal street gang for the purpose of the commission of any of the offenses listed in subdivision (e) of Section 186.22, or the commission of any burglary or rape, may be confiscated by any law enforcement agency or peace officer.

(2) In those cases where a law enforcement agency believes that the return of the firearm, ammunition, or deadly weapon confiscated pursuant to this subdivision, is or will be used in criminal street gang activity or that the return of the item would be likely to result in endangering the safety of others, the law enforcement agency shall initiate a petition in the superior court to determine if the item confiscated should be returned or declared a nuisance.

(3) No firearm, ammunition, or deadly weapon shall be sold or destroyed unless reasonable notice is given to its lawful owner if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner, at that person's last known address by registered mail, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing and that the failure to respond shall result in a default order forfeiting the confiscated firearm, ammunition, or deadly weapon as a nuisance.

(4) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing.

(5) At the hearing, the burden of proof is upon the law enforcement agency or peace officer to show by a preponderance of the evidence that the seized item is or

will be used in criminal street gang activity or that return of the item would be likely to result in endangering the safety of others. All returns of firearms shall be subject to ~~Section 12021.3~~ Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

(6) If the person does not request a hearing within 30 days of the notice or the lawful owner cannot be ascertained, the law enforcement agency may file a petition that the confiscated firearm, ammunition, or deadly weapon be declared a nuisance. If the items are declared to be a nuisance, the law enforcement agency shall dispose of the items as provided in ~~Section 12028~~ Sections 18000 and 18005.

**Comment.** Subdivision (f) of Section 186.22a is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 189 (amended). First and second degree murder**

SEC. \_\_\_\_ . Section 189 of the Penal Code is amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, a weapon of mass destruction, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, carjacking, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 206, 286, 288, 288a, or 289, or any murder which is perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict death, is murder of the first degree. All other kinds of murders are of the second degree.

As used in this section, “destructive device” means any destructive device as defined in Section ~~12301~~ 16460, and “explosive” means any explosive as defined in Section 12000 of the Health and Safety Code.

As used in this section, “weapon of mass destruction” means any item defined in Section 11417.

To prove the killing was “deliberate and premeditated,” it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.

**Comment.** Section 189 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 244.5 (amended). Stun gun or less lethal weapon**

SEC. \_\_\_\_ . Section 244.5 of the Penal Code is amended to read:

244.5. (a) As used in this section, “stun gun” means any item, except a less lethal weapon, as defined in Section ~~12601~~ 16780, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

(b) Every person who commits an assault upon the person of another with a stun gun or less lethal weapon, as defined in Section ~~12601~~ 16780, shall be punished by

imprisonment in a county jail for a term not exceeding one year, or by imprisonment in the state prison for 16 months, two, or three years.

(c) Every person who commits an assault upon the person of a peace officer or firefighter with a stun gun or less lethal weapon, as defined in Section ~~12601~~ 16780, who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by imprisonment in the state prison for two, three, or four years.

(d) This section shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

**Comment.** Section 244.5 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 245 (amended). Assault with weapons**

SEC. \_\_\_\_ . Section 245 of the Penal Code is amended to read:

245. (a)(1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section ~~12200~~ 16880, or an assault weapon, as defined in Section ~~12276 or 12276.1~~ 30510 or 30515, or a .50 BMG rifle, as defined in Section ~~12278~~ 30530, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d)(1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who commits an assault with a machinegun, as defined in Section ~~12200~~ 16880, or an assault weapon, as defined in Section ~~12276~~ or 12276.1 30510 or 30515, or a .50 BMG rifle, as defined in Section ~~12278~~ 30530, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by ~~Section 12028~~ Sections 18000 and 18005.

(f) As used in this section, “peace officer” refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

**Comment.** Section 245 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 245.3 (amended). Assault with deadly weapon on custodial officer**

SEC. \_\_\_\_ . Section 245.3 of the Penal Code is amended to read:

245.3. Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a custodial officer as defined in Section 831 or 831.5, and who knows or reasonably should know that ~~such~~ the victim is ~~such~~ a custodial officer engaged in the performance of ~~his~~ duties, shall be punished by imprisonment in the state prison for three, four, or five years.

When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument, and ~~such~~ that weapon or instrument is owned by ~~such~~ that person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by ~~Section 12028~~ Sections 18000 and 18005.

**Comment.** Section 245.3 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. The section is also amended to make it gender-neutral and to make other technical revisions.

**Penal Code § 273.6 (amended). Violation of protective order and other orders**

SEC. \_\_\_\_ . Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars (\$2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both that fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interest of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order described in subdivision (a).

(4) Any order issued by another state that is recognized under Part 5 (commencing with Section 6400) of Division 10 of the Family Code.

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or “a credible threat” of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) that results in physical injury to a victim, the person shall be punished by a fine of not more than two thousand dollars (\$2,000), or by imprisonment in a county jail for not less than six months

nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interest of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders described in subdivisions (a), (b), (d), and (e).

(g)(1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Section 527.6 or 527.8 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, shall be punished under the provisions of ~~subdivision (g) of Section 12021~~ Section 29825.

(2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (f) of Section 527.9 of the Code of Civil Procedure, or subdivision (h) of Section 6389 of the Family Code.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), (c), (d), or (e), the court shall impose probation consistent with the provisions of Section 1203.097, and the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter or to a shelter for abused elder persons or dependent adults, up to a maximum of five thousand dollars (\$5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to

the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

**Comment.** Subdivision (g) of Section 273.6 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 417.4 (amended). Punishment for drawing or exhibiting imitation firearm**

SEC. \_\_\_\_\_. Section 417.4 of the Penal Code is amended to read:

417.4. Every person who, except in self-defense, draws or exhibits an imitation firearm, as defined in ~~Section 12550~~ subdivision (a) of Section 16700, in a threatening manner against another in ~~such~~ a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a misdemeanor punishable by imprisonment in a county jail for a term of not less than 30 days.

**Comment.** Section 417.4 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. The section is also amended to make a technical revision.

**Penal Code § 417.6 (amended). Intentional infliction of serious bodily injury by drawing or exhibiting firearm or deadly weapon**

SEC. \_\_\_\_\_. Section 417.6 of the Penal Code is amended to read:

417.6. (a) If, in the commission of a violation of Section 417 or 417.8, serious bodily injury is intentionally inflicted by the person drawing or exhibiting the firearm or deadly weapon, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(b) As used in this section, “serious bodily injury” means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(c) When a person is convicted of a violation of Section 417 or 417.8 and the deadly weapon or firearm used by the person is owned by that person, the court shall order that the weapon or firearm be deemed a nuisance and disposed of in the manner provided by ~~Section 12028~~ Sections 18000 and 18005.

**Comment.** Subdivision (c) of Section 417.6 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 626.9 (amended). Gun-Free School Zone Act of 1995**

SEC. \_\_\_\_\_. Section 626.9 of the Penal Code is amended to read:

626.9. (a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.

(b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (1) of subdivision (e), unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished as specified in subdivision (f).

(c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:

(1) Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

(2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

This section does not prohibit or limit the otherwise lawful transportation of any other firearm, other than a pistol, revolver, or other firearm capable of being concealed on the person, in accordance with state law.

(3) When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating subdivision (b), the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(4) When the person is exempt from the prohibition against carrying a concealed firearm pursuant to ~~subdivision (b), (d), (e), or (h) of Section 12027~~ Section 25615, 25625, 25630, or 25645.

(d) Except as provided in subdivision (b), it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (1) of subdivision (e).

The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of paragraph (1) of subdivision (c) are satisfied.

(e) As used in this section, the following definitions shall apply:

(1) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(2) "Firearm" has the same meaning as that term is given in ~~Section 12001~~ subdivisions (a) to (d), inclusive, of Section 16520.

(3) "Locked container" has the same meaning as that term is given in ~~subdivision (c) of Section 12026.1~~ Section 16850.

(4) "Concealed firearm" has the same meaning as that term is given in Sections ~~12025 and 12026.1~~ 25400 and 25610.

(f)(1) Any person who violates subdivision (b) by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or

grades 1 to 12, inclusive, shall be punished by imprisonment in the state prison for two, three, or five years.

(2) Any person who violates subdivision (b) by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

(A) By imprisonment in the state prison for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by ~~Chapter 1 (commencing with Section 12000) of Title 2 of Part 4~~ any provision listed in Section 16580.

(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to ~~Section 12021 or 12021.1~~ Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to ~~Section 12025~~ 25400.

(B) By imprisonment in a county jail for not more than one year or by imprisonment in the state prison for two, three, or five years, in all cases other than those specified in subparagraph (A).

(3) Any person who violates subdivision (d) shall be punished by imprisonment in the state prison for three, five, or seven years.

(g)(1) Every person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in ~~Section 12001.6~~ 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in ~~Section 12001.6~~ 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) Every person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by ~~Chapter 1 (commencing with Section 12000) of Title 2 of Part 4~~ any provision listed in Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be

served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section ~~12026~~ 25605, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment in the state prison for two, three, or four years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding Section ~~12026~~ 25605, any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment in the state prison for one, two, or three years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(l) This section does not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to ~~Article 3 (commencing~~

~~with Section 12050) of Chapter 1 of Title 2 of Part 4 Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code.~~

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to ~~Section 12031 Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.~~

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to ~~subdivision (a) or (i) of Section 12027 or paragraph (1) or (8) of subdivision (b) of Section 12031~~ any of the following:

(1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

(2) Section 25650.

(3) Sections 25900 to 25910, inclusive.

(4) Section 26020.

**Comment.** Section 626.9 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Subdivision (c) is amended to make a technical revision.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 626.95 (amended). Firearm at playground or youth center**

SEC. \_\_\_\_ . Section 626.95 of the Penal Code is amended to read:

626.95. (a) Any person who is in violation of paragraph (2) of subdivision (a), or subdivision (b), of Section 417, or Section ~~12025 or 12031~~ 25400 or 25850, upon the grounds of or within a playground, or a public or private youth center during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility, knowing that he or she is on or within those grounds, shall be punished by imprisonment in the state prison for one, two, or three years, or in a county jail not exceeding one year.

(b) State and local authorities are encouraged to cause signs to be posted around playgrounds and youth centers giving warning of prohibition of the possession of firearms upon the grounds of or within playgrounds or youth centers.

(c) For purposes of this section, the following definitions shall apply:

(1) “Playground” means any park or recreational area specifically designed to be used by children that has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city or county parks.

(2) “Youth center” means any public or private facility that is used to host recreational or social activities for minors while minors are present.

(d) It is the Legislature's intent that only an actual conviction of a felony of one of the offenses specified in this section would subject the person to firearms disabilities under the federal Gun Control Act of 1968 (P.L. 90-618; 18 U.S.C. Sec. 921).

**Comment.** Subdivision (a) of Section 626.95 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 626.10 (amended). Bringing or possessing weapons on school grounds**

SEC. \_\_\_\_ . Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2½ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO<sub>2</sub> pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2½ inches or a razor with an unguarded blade upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or

classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2½ inches, or a razor with an unguarded blade upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO<sub>2</sub> pressure, or spring action, or any spot marker gun upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

(i) Any person who, without the written permission of the college or university president or chancellor or his or her designee, brings or possesses a less lethal weapon, as defined in Section ~~12604~~ 16780, or a stun gun, as defined in Section ~~12650~~ 17230, upon the grounds of or within, a public or private college or university campus is guilty of a misdemeanor.

**Comment.** Subdivision (i) of Section 626.10 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 629.52 (amended). Ex parte order authorizing interception of specified communications**

SEC. \_\_\_\_ . Section 629.52 of the Penal Code is amended to read:

629.52. Upon application made under Section 629.50, the judge may enter an ex parte order, as requested or modified, authorizing interception of wire, electronic pager, or electronic cellular telephone communications initially intercepted within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines, on the basis of the facts submitted by the applicant, all of the following:

(a) There is probable cause to believe that an individual is committing, has committed, or is about to commit, one of the following offenses:

(1) Importation, possession for sale, transportation, manufacture, or sale of controlled substances in violation of Section 11351, 11351.5, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code with respect to a substance containing heroin, cocaine, PCP, methamphetamine, or their precursors or analogs where the substance exceeds 10 gallons by liquid volume or three pounds of solid substance by weight.

(2) Murder, solicitation to commit murder, the commission of a felony involving a destructive device in violation of Section ~~12303, 12303.1, 12303.2, 12303.3, 12303.6, 12308, 12309, 12310, or 12312~~ 18710, 18715, 18720, 18725, 18730, 18740, 18745, 18750, or 18755, or a violation of Section 209.

(3) Any felony violation of Section 186.22.

(4) Any felony violation of Section 11418, relating to weapons of mass destruction, Section 11418.5, relating to threats to use weapons of mass destruction, or Section 11419, relating to restricted biological agents.

(5) An attempt or conspiracy to commit any of the above-mentioned crimes.

(b) There is probable cause to believe that particular communications concerning the illegal activities will be obtained through that interception, including, but not limited to, communications that may be utilized for locating or rescuing a kidnap victim.

(c) There is probable cause to believe that the facilities from which, or the place where, the wire, electronic pager, or electronic cellular telephone communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.

(d) Normal investigative procedures have been tried and have failed or reasonably appear either to be unlikely to succeed if tried or to be too dangerous.

**Comment.** Subdivision (a) of Section 629.52 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 667.5 (amended). Enhancement for prior prison terms**

SEC. \_\_\_\_ . Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor,

the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, “violent felony” shall mean any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section ~~12308, 12309, or 12310~~ 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole, whichever first occurs, including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Department of the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

**Comment.** Subdivision (c) of Section 667.5 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 667.7 (amended). Punishment for habitual offenders**

SEC. \_\_\_\_ . Section 667.7 of the Penal Code is amended to read:

667.7. (a) Any person convicted of a felony in which the person inflicted great bodily injury as provided in Section 12022.53 or 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping as punished in former subdivision (d) of Section 208, or for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; carjacking involving the use of a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, sexual penetration in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a destructive device with intent to murder in violation of Section 12308 18745; exploding a destructive device which causes bodily injury in

violation of Section ~~12309~~ 18750, or mayhem or great bodily injury in violation of Section ~~12310~~ 18755; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section ~~12303.3~~ 18740; any felony in which the person inflicted great bodily injury as provided in Section 12022.53 or 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished as follows:

(1) A person who served two prior separate prison terms shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but the person shall not otherwise be released on parole prior to that time.

(2) Any person convicted of a felony specified in this subdivision who has served three or more prior separate prison terms, as defined in Section 667.5, for the crimes specified in subdivision (a) of this section shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

**Comment.** Subdivision (a) of Section 667.7 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 679.03 (amended). Notice of release, escape, scheduled execution, or death of specified violent offender**

SEC. \_\_\_\_ . Section 679.03 of the Penal Code is amended to read:

679.03. (a) With respect to the conviction of a defendant involving a violent offense, as defined in ~~subdivision (b) of Section 12021.1~~ Section 29905, the county district attorney, probation department, and victim-witness coordinator shall confer and establish an annual policy within existing resources to decide

which one of their agencies shall inform each witness involved in the conviction who was threatened by the defendant following the defendant's arrest and each victim or next of kin of the victim of that offense of the right to request and receive a notice pursuant to Section 3058.8 or 3605. If no agreement is reached, the presiding judge shall designate the appropriate county agency or department to provide this notification.

(b) The Department of Corrections shall supply a form to the agency designated pursuant to subdivision (a) in order to enable persons specified in subdivision (a) to request and receive notification from the department of the release, escape, scheduled execution, or death of the violent offender. That agency shall give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be so notified, and forward the completed form to the department. The department or the Board of Prison Terms is responsible for notifying all victims, witnesses, or next of kin of victims who request to be notified of a violent offender's release or scheduled execution, as provided by Sections 3058.8 and 3605.

(c) All information relating to any person receiving notice pursuant to subdivision (b) shall remain confidential and is not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Title 7 of Division 1 of the Government Code).

**Comment.** Subdivision (a) of Section 679.03 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 830.5 (amended). Authority of peace officers to carry firearms**

SEC. \_\_\_\_ . Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Youthful Offender Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole or of probation by any person in this state on parole or probation.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole or probation.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.

(5) To the rendering of mutual aid to any other law enforcement agency.

For the purposes of this subdivision, “parole agent” shall have the same meaning as parole officer of the Department of Corrections or of the Department of the Youth Authority.

Any parole officer of the Department of Corrections, the Department of the Youth Authority, or the Youthful Offender Parole Board is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of the Youth Authority shall develop a policy for arming peace officers of the Department of the Youth Authority who comprise “high-risk transportation details” or “high-risk escape details” no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

The Department of the Youth Authority shall train and arm those peace officers who comprise tactical teams at each facility for use during “high-risk escape details.”

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or the Inspector General of the Youth and Adult Correctional Agency or any internal affairs investigator under the authority of the Inspector General or any employee of the Department of Corrections designated by the Director of Corrections or any correctional counselor series employee of the Department of Corrections or any medical technical assistant series employee designated by the Director of Corrections or designated by the Director of Corrections and employed by the State Department of Mental Health or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Youth Authority or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections or the Department of the Youth Authority, a correctional officer or correctional counselor employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections. A parole officer of the Youthful Offender Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section ~~12025~~ 25400. The director or chairperson may deny, suspend, or revoke for good cause a person’s right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections, the Department of the

Youth Authority, or the Youthful Offender Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain his or her eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

(e) The Department of Corrections shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The Director of Corrections shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the Director of the Youth Authority, or his or her designee. The director, or his or her designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) "Transportation detail" as used in this section shall include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

**Comment.** Subdivision (c) of Section 830.5 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 830.8 (amended). Federal employees and Washoe tribal law enforcement officers**

SEC. \_\_\_\_ . Section 830.8 of the Penal Code is amended to read:

830.8. (a) Federal criminal investigators and law enforcement officers are not California peace officers, but may exercise the powers of arrest of a peace officer in any of the following circumstances:

(1) Any circumstances specified in Section 836 or Section 5150 of the Welfare and Institutions Code for violations of state or local laws.

(2) When these investigators and law enforcement officers are engaged in the enforcement of federal criminal laws and exercise the arrest powers only incidental to the performance of these duties.

(3) When requested by a California law enforcement agency to be involved in a joint task force or criminal investigation.

(4) When probable cause exists to believe that a public offense that involves immediate danger to persons or property has just occurred or is being committed.

In all of these instances, the provisions of Section 847 shall apply. These investigators and law enforcement officers, prior to the exercise of these arrest powers, shall have been certified by their agency heads as having satisfied the training requirements of Section 832, or the equivalent thereof.

This subdivision does not apply to federal officers of the Bureau of Land Management or the Forest Service of the Department of Agriculture. These officers have no authority to enforce California statutes without the written consent of the sheriff or the chief of police in whose jurisdiction they are assigned.

(b) Duly authorized federal employees who comply with the training requirements set forth in Section 832 are peace officers when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government, or on any street, sidewalk, or property adjacent thereto, and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction the property is situated.

(c) National park rangers are not California peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws provided these rangers are exercising the arrest powers incidental to the performance of their federal duties or providing or attempting to provide law enforcement services in response to a request initiated by California state park rangers to assist in preserving the peace and protecting state parks and other property for which California state park rangers are responsible. National park rangers, prior to the exercise of these arrest powers, shall have been certified by their agency heads as having satisfactorily completed the training requirements of Section 832.3, or the equivalent thereof.

(d) Notwithstanding any other provision of law, during a state of war emergency or a state of emergency, as defined in Section 8558 of the Government Code, federal criminal investigators and law enforcement officers who are assisting California law enforcement officers in carrying out emergency operations are not deemed California peace officers, but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws. In these instances, the provisions of Section 847 and of Section 8655 of the Government Code shall apply.

(e)(1) Any qualified person who is appointed as a Washoe tribal law enforcement officer is not a California peace officer, but may exercise the powers of a Washoe tribal peace officer when engaged in the enforcement of Washoe tribal criminal laws against any person who is an Indian, as defined in subsection (a) of Section 450b of Title 25 of the United States Code, on Washoe tribal land. The respective prosecuting authorities, in consultation with law enforcement agencies, may agree on who shall have initial responsibility for prosecution of specified infractions. This subdivision is not meant to confer cross-deputized status as California peace officers, nor to confer California peace officer status

upon Washoe tribal law enforcement officers when enforcing state or local laws in the State of California. Nothing in this section shall be construed to impose liability upon or to require indemnification by the County of Alpine or the State of California for any act performed by an officer of the Washoe Tribe. Washoe tribal law enforcement officers shall have the right to travel to and from Washoe tribal lands within California in order to carry out tribal duties.

(2) Washoe tribal law enforcement officers are exempted from the provisions of subdivision (a) of Section ~~12025~~ and subdivision (a) of Section ~~12031~~ 25400 and subdivision (a) and subdivisions (c) to (h), inclusive, of Section 25850 while performing their official duties on their tribal lands or while proceeding by a direct route to or from the tribal lands. Tribal law enforcement vehicles are deemed to be emergency vehicles within the meaning of Section 30 of the Vehicle Code while performing official police services.

(3) As used in this subdivision, the term “Washoe tribal lands” includes the following:

(A) All lands located in the County of Alpine within the limits of the reservation created for the Washoe Tribe of Nevada and California, notwithstanding the issuance of any patent and including rights-of-way running through the reservation and all tribal trust lands.

(B) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(4) As used in this subdivision, the term “Washoe tribal law” refers to the laws codified in the Law and Order Code of the Washoe Tribe of Nevada and California, as adopted by the Tribal Council of the Washoe Tribe of Nevada and California.

**Comment.** Subdivision (e) of Section 830.8 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 833.5 (amended). Detention by peace officer to determine whether crime relating to firearms or deadly weapons was committed**

SEC. \_\_\_\_ . Section 833.5 of the Penal Code is amended to read:

833.5. (a) In addition to any other detention permitted by law, if a peace officer has reasonable cause to believe that a person has a firearm or other deadly weapon with him or her in violation of any provision of law relating to firearms or deadly weapons the peace officer may detain that person to determine whether a crime relating to firearms or deadly weapons has been committed.

For purposes of this section “reasonable cause to detain” requires that the circumstances known or apparent to the officer must include specific and articulable facts causing him or her to suspect that some offense relating to firearms or deadly weapons has taken place or is occurring or is about to occur and that the person he or she intends to detain is involved in that offense. The circumstances must be such as would cause any reasonable peace officer in like

position, drawing when appropriate on his or her training and experience, to suspect the same offense and the same involvement by the person in question.

(b) Incident to any detention permitted pursuant to subdivision (a), a peace officer may conduct a limited search of the person for firearms or weapons if the peace officer reasonably concludes that the person detained may be armed and presently dangerous to the peace officer or others. Any firearm or weapon seized pursuant to a valid detention or search pursuant to this section shall be admissible in evidence in any proceeding for any purpose permitted by law.

(c) This section shall not be construed to otherwise limit the authority of a peace officer to detain any person or to make an arrest based on reasonable cause.

(d) This section shall not be construed to permit a peace officer to conduct a detention or search of any person at the person's residence or place of business absent a search warrant or other reasonable cause to detain or search.

(e) If a firearm or weapon is seized pursuant to this section and the person from whom it was seized owned the firearm or weapon and is convicted of a violation of any offense relating to the possession of ~~such~~ the firearm or weapon, the court shall order the firearm or weapon to be deemed a nuisance and disposed of in the manner provided by ~~Section 12028~~ Sections 18000 and 18005.

**Comment.** Subdivision (e) of Section 833.5 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. That subdivision is also amended to make a technical revision.

**Penal Code § 836 (amended). Arrest**

SEC. \_\_\_\_ . Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c)(1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under Section 527.6 of the Code of Civil Procedure, the Family Code, Section 136.2, 646.91, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, Section 213.5 or 15657.03 of the Welfare and Institutions Code, or of a domestic violence protective or

restraining order issued by the court of another state, tribe, or territory and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest of the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities or the Domestic Violence Protection Order Registry maintained pursuant to Section 6380 of the Family Code that a true copy of the protective order has been registered, unless the victim provides the officer with a copy of the protective order.

(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order.

(3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the primary aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the primary aggressor involved in the incident. The primary aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggressor, an officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiance, fiancée, a current or former cohabitant as defined in Section 6209 of the Family Code, a person with whom the suspect currently is having or has previously had an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, any other person related to the suspect by consanguinity or affinity within the second degree, or any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section ~~12025~~ 25400 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section ~~12025~~ 25400.

(2) The violation of Section ~~12025~~ 25400 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section ~~12025~~ 25400.

**Comment.** Subdivision (e) of Section 836 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 999e (amended). Career criminal prosecution**

SEC. \_\_\_\_ . Section 999e of the Penal Code is amended to read:

999e. (a) An individual who is under arrest for the commission or attempted commission of one or more of the felonies listed in paragraph (1) and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of those felonies, or has been convicted during the preceding 10 years for any felony listed in paragraph (2) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (3) of this subdivision shall be the subject of career criminal prosecution efforts.

(1) Murder, manslaughter, rape, sexual assault, child molestation, robbery, carjacking, burglary, arson, receiving stolen property, grand theft, grand theft auto, lewd and lascivious conduct upon a child, assault with a firearm, discharging a firearm into an inhabited structure or vehicle, owning, possessing, or having custody or control of a firearm, as specified in subdivision (a) or (b) of Section ~~12021~~ 29800, or any unlawful act relating to controlled substances in violation of ~~Sections~~ Section 11351, 11351.5, 11352, or 11378 of the Health and Safety Code.

(2) Robbery of the first degree, carjacking, burglary of the first degree, arson as defined in Section 451, unlawfully causing a fire as defined in Section 452, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209 or 209.5, murder, or manslaughter.

(3) Grand theft, grand theft auto, receiving stolen property, robbery of the second degree, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon or instrument, or any unlawful act relating to

controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of one or more of these felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the character, background, and prior criminal background of the defendant, and the number and the seriousness of the offenses currently charged against the defendant.

**Comment.** Subdivision (a) of Section 999e is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. That subdivision is also amended to make a technical revision.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 1170.11 (amended). Specific enhancement defined for purposes of Section 1170.1**

SEC. \_\_\_\_ . Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term “specific enhancement” means an enhancement that relates to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 192.5, 273.4, 289.5, 290.4, 290.45, 290.46, 347, and 368, subdivisions (a) and (b) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 675, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, ~~12072 and 12280~~ 27590, 30600, and 30615 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.7, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the Welfare and Institutions Code.

**Comment.** Section 1170.11 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 1174.4 (amended). Persons eligible for alternative sentencing program**

SEC. \_\_\_\_ . Section 1174.4 of the Penal Code is amended to read:

1174.4. (a) Persons eligible for participation in this alternative sentencing program shall meet all of the following criteria:

(1) Pregnant women with an established history of substance abuse, or pregnant or parenting women with an established history of substance abuse who have one or more children under six years old at the time of entry into the program. For women with children, at least one eligible child shall reside with the mother in the facility.

(2) Never served a prior prison term for, nor been convicted in the present proceeding of, committing or attempting to commit, any of the following offenses:

(A) Murder or voluntary manslaughter.

(B) Mayhem.

(C) Rape.

(D) Kidnapping.

(E) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(F) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(G) Lewd acts on a child under 14 years of age, as defined in Section 288.

(H) Any felony punishable by death or imprisonment in the state prison for life.

(I) Any felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9, or any felony in which the defendant uses a firearm, as provided in Section 12022.5, 12022.53, or 12022.55, in which the use has been charged and proved.

(J) Robbery.

(K) Any robbery perpetrated in an inhabited dwelling house or trailer coach as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(L) Arson in violation of subdivision (a) of Section 451.

(M) Sexual penetration in violation of subdivision (a) of Section 289 if the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(N) Rape or sexual penetration in concert, in violation of Section 264.1.

(O) Continual sexual abuse of a child in violation of Section 288.5.

(P) Assault with intent to commit mayhem, rape, sodomy, oral copulation, rape in concert with another, lascivious acts upon a child, or sexual penetration.

(Q) Assault with a deadly weapon or with force likely to produce great bodily injury in violation of subdivision (a) of Section 245.

(R) Any violent felony defined in Section 667.5.

(S) A violation of Section 12022.

(T) A violation of Section ~~12308~~ 18745.

(U) Burglary of the first degree.

(V) A violation of Section 11351, 11351.5, 11352, 11353, 11358, 11359, 11360, 11370.1, 11370.6, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, or 11383 of the Health and Safety Code.

(3) Has not been sentenced to state prison for a term exceeding 36 months.

(b) Prior to sentencing, if the court proposes to give consideration to a placement, the court shall consider a written evaluation by the probation department, which shall include the following:

(1) Whether the defendant is eligible for participation pursuant to this section.

(2) Whether participation by the defendant and her eligible children is deemed to be in the best interests of the children.

(3) Whether the defendant is amenable to treatment for substance abuse and would benefit from participation in the program.

(4) Whether the program is deemed to be in the best interests of an eligible child of the defendant, as determined by a representative of the appropriate child welfare services agency of the county if the child is a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code.

(c) The district attorney shall make a recommendation to the court as to whether or not the defendant would benefit from the program, which the court shall consider in making its decision. If the court's decision is without the concurrence of the district attorney, the court shall specify its reasons in writing and enter them into the record.

(d) If the court determines that the defendant may benefit from participation in this program, the court may impose a state prison sentence with the recommendation that the defendant participate in the program pursuant to this chapter. The court shall notify the department within 48 hours of imposition of this sentence.

(e) The Director of Corrections shall consider the court's recommendation in making a determination on the inmate's placement in the program.

(f) Women accepted for the program by the Director of Corrections shall be delivered by the county, pursuant to Section 1202a, to the facility selected by the department. Before the director accepts a woman for the program, the county shall provide to the director the necessary information to determine her eligibility and appropriate placement status. Priority for services and aftercare shall be given to inmates who are incarcerated in a county, or adjacent to a county, in which a program facility is located.

(g) Prior to being admitted to the program, each participant shall voluntarily sign an agreement specifying the terms and conditions of participation in the program.

(h) The department may refer inmates back to the sentencing court if the department determines that an eligible inmate has not been recommended for the program. The department shall refer the inmate to the court by an evaluative report so stating the department's assessment of eligibility, and requesting a recommendation by the court.

(i) Women who successfully complete the program, including the minimum of one year of transition services under intensive parole supervision, shall be discharged from parole. Women who do not successfully complete the program shall be returned to the state prison where they shall serve their original sentences. These persons shall receive full credit against their original sentences for the time served in the program, pursuant to Section 2933.

**Comment.** Subdivision (a) of Section 1174.4 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 1192.7 (amended). Prosecution of sex crimes**

SEC. \_\_\_\_ . Section 1192.7 of the Penal Code is amended to read:

1192.7. (a)(1) It is the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under a “one strike,” “three strikes” or habitual sex offender statute instead of engaging in plea bargaining over those offenses.

(2) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people’s case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(3) If the indictment or information charges the defendant with a violent sex crime, as listed in subdivision (c) of Section 667.61, that could be prosecuted under Sections 269, 288.7, subdivisions (b) through (i) of Section 667, Section 667.61, or 667.71, plea bargaining is prohibited unless there is insufficient evidence to prove the people’s case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. At the time of presenting the agreement to the court, the district attorney shall state on the record why a sentence under one of those sections was not sought.

(b) As used in this section “plea bargaining” means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, “serious felony” means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by

force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under 14 years of age; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) any burglary of the first degree; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of ~~Sections~~ Section 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section ~~12034~~ 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section

11418; and (42) any conspiracy to commit an offense described in this subdivision.

(d) As used in this section, “bank robbery” means to take or attempt to take, by force or violence, or by intimidation from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association.

As used in this subdivision, the following terms have the following meanings:

(1) “Bank” means any member of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) “Savings and loan association” means any federal savings and loan association and any “insured institution” as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(3) “Credit union” means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union administration.

(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

**Comment.** Subdivision (c) of Section 1192.7 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. That subdivision is also amended to make a technical revision.

**Penal Code § 1203 (amended). Probation and conditional sentence**

SEC. \_\_\_\_. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, “probation” means the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer. As used in this code, “conditional sentence” means the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to conditions established by the court without the supervision of a probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b)(1) Except as provided in subdivision (j), if a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to a probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the

prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment.

(2)(A) The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted.

(B) Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation.

(C) If the person was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290, the probation officer's report shall include the results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) administered pursuant to Sections 290.04 to 290.06, inclusive, if applicable.

(D) The probation officer shall also include in the report his or her recommendation of both of the following:

(i) The amount the defendant should be required to pay as a restitution fine pursuant to subdivision (b) of Section 1202.4.

(ii) Whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund and the amount thereof.

(E) The report shall be made available to the court and the prosecuting and defense attorneys at least five days, or upon request of the defendant or prosecuting attorney nine days, prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorneys that is filed with the court or an oral stipulation in open court that is made and entered upon the minutes of the court.

(3) At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer, including the results of the SARATSO, if applicable, and shall make a statement that it has considered the report, which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections and Rehabilitation at the prison or other institution to which the person is delivered.

(4) The preparation of the report or the consideration of the report by the court may be waived only by a written stipulation of the prosecuting and defense attorneys that is filed with the court or an oral stipulation in open court that is made and entered upon the minutes of the court, except that there shall be no waiver unless the court consents thereto. However, if the defendant is ultimately sentenced and committed to the state prison, a probation report shall be completed pursuant to Section 1203c.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) If a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If the person was convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290, the court shall refer the matter to the probation officer for the purpose of obtaining a report on the results of the State-Authorized Risk Assessment Tool for Sex Offenders administered pursuant to Sections 290.04 to 290.06, inclusive, if applicable, which the court shall consider. If the case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person that could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert the information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, carjacking, burglary, burglary with explosives, rape with force or violence, torture, aggravated mayhem, murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of those crimes and who was armed with the weapon at either of those times.

(2) Any person who used, or attempted to use, a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state,

would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, torture, aggravated mayhem, murder, attempt to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, 288a, or 288.5, or a conspiracy to commit one or more of those crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(A) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of the previous crime or his or her arrest for the previous crime, he or she was armed with a weapon at either of those times.

(B) The person used, or attempted to use, a deadly weapon upon a human being in connection with the perpetration of the previous crime.

(C) The person willfully inflicted great bodily injury or torture in the perpetration of the previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned, or caused the burning of, an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(11) Any person who possesses a short-barreled rifle or a short-barreled shotgun under Section ~~12020~~ 33215, a machinegun under Section ~~12220~~ 32625, or a silencer under Section ~~12520~~ 33410.

(12) Any person who is convicted of violating Section 8101 of the Welfare and Institutions Code.

(13) Any person who is described in ~~paragraph (2) or (3) of subdivision (g) of Section 12072~~ subdivision (b) or (c) of Section 27590.

(f) When probation is granted in a case which comes within subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to determination of the amount of a restitution fine pursuant to subdivision (b) of Section 1202.4 in all cases where the determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon that referral, the probation officer shall immediately

investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in subdivision (b) of Section 1202.4.

(h) If a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer may obtain and include in the report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain a statement if the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator of the Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4) and the probationer has reimbursed the county that has jurisdiction over his or her probation case the reasonable costs of processing his or her request for interstate compact supervision. The amount and method of reimbursement shall be in accordance with Section 1203.1b.

(j) In any court where a county financial evaluation officer is available, in addition to referring the matter to the probation officer, the court may order the defendant to appear before the county financial evaluation officer for a financial evaluation of the defendant's ability to pay restitution, in which case the county financial evaluation officer shall report his or her findings regarding restitution and other court-related costs to the probation officer on the question of the defendant's ability to pay those costs.

Any order made pursuant to this subdivision may be enforced as a violation of the terms and conditions of probation upon willful failure to pay and at the discretion of the court, may be enforced in the same manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

(k) Probation shall not be granted to, nor shall the execution of, or imposition of sentence be suspended for, any person who is convicted of a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7, and who was on probation for a felony offense at the time of the commission of the new felony offense.

**Comment.** Subdivision (e) of Section 1203 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 1203.1 (amended). Terms and conditions of probation**

SEC. \_\_\_\_ . Section 1203.1 of the Penal Code is amended to read:

1203.1. (a) The court, or judge thereof, in the order granting probation, may suspend the imposing or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and

conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof, may imprison the defendant in a county jail for a period not exceeding the maximum time fixed by law in the case.

However, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years. The following shall apply to this subdivision:

(1) The court may fine the defendant in a sum not to exceed the maximum fine provided by law in the case.

(2) The court may, in connection with granting probation, impose either imprisonment in a county jail or a fine, both, or neither.

(3) The court shall provide for restitution in proper cases. The restitution order shall be fully enforceable as a civil judgment forthwith and in accordance with Section 1202.4 of the Penal Code.

(4) The court may require bonds for the faithful observance and performance of any or all of the conditions of probation.

(b) The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department, provided, that payment need not be forwarded to a victim until 180 days from the date the first payment is received, if the restitution payments for that victim received by the probation department total less than fifty dollars (\$50). In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost-effective to do so, but in no event shall restitution disbursements be delayed beyond 180 days from the date the payment is received by the probation department.

(c) In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in the road camp, farm, or other public work instead of in jail. In this case, Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county.

(d) In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account

of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

(e) The court shall also consider whether the defendant as a condition of probation shall make restitution to a public agency for the costs of an emergency response pursuant to Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of Division 2 of the Government Code.

(f) In all felony cases in which, as a condition of probation, a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

(g)(1) The court and prosecuting attorney shall consider whether any defendant who has been convicted of a nonviolent or nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the removal of graffiti in the performance of the community service. For the purpose of this subdivision, a nonserious offense shall not include the following:

(A) Offenses in violation of the Dangerous ~~Weapons~~ Weapons Control Law (~~Chapter 1 (commencing with Section 12000) of Title 2 of Part 4~~), as defined in Section 23500.

(B) Offenses involving the use of a dangerous or deadly weapon, including all violations of Section 417.

(C) Offenses involving the use or attempted use of violence against the person of another or involving injury to a victim.

(D) Offenses involving annoying or molesting children.

(2) Notwithstanding subparagraph (A) of paragraph (1), any person who violates ~~Section 12101~~ Chapter 1 (commencing with Section 29610) of Division 9 of Title 4 of Part 6 shall be ordered to perform not less than 100 hours and not more than 500 hours of community service as a condition of probation.

(3) The court and the prosecuting attorney need not consider a defendant pursuant to paragraph (1) if the following circumstances exist:

(A) The defendant was convicted of any offense set forth in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) The judge believes that the public safety may be endangered if the person is ordered to do community service or the judge believes that the facts or circumstances or facts and circumstances call for imposition of a more substantial penalty.

(h) The probation officer or his or her designated representative shall consider whether any defendant who has been convicted of a nonviolent and nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the performance of house repairs or yard services for senior citizens and the performance of repairs to senior centers

through contact with local senior service organizations in the performance of the community service.

(i)(1) Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

(2) Upon conviction of any sex offense subjecting the defendant to the registration requirements of Section 290, the court may order as a condition of probation, at the request of the victim or in the court's discretion, that the defendant stay away from the victim and the victim's residence or place of employment, and that the defendant have no contact with the victim in person, by telephone or electronic means, or by mail.

(j) The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all the terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

(k) Notwithstanding any other provisions of law to the contrary, except as provided in Section 13967, as operative on or before September 28, 1994, of the Government Code and Section 13967.5 of the Government Code and Sections 1202.4, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, and Section 1203.04, as operative on or before August 2, 1995, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund for the use and benefit of the county.

(l) If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 10 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

**Comment.** Subdivision (g) of Section 1203.1 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. That subdivision is also amended to make a technical revision.

**Penal Code § 1203.4 (amended). Dismissal of information or accusation**

SEC. \_\_\_\_ . Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under ~~Section 12021~~ Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c)(1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred twenty dollars (\$120), and to reimburse the county for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars (\$120), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars (\$120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of

subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

**Comment.** Subdivision (a) of Section 1203.4 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 1203.4a (amended). Withdrawal of plea to misdemeanor**

SEC. \_\_\_\_ . Section 1203.4a of the Penal Code is amended to read:

1203.4a. (a) Every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in ~~Section 12021.1~~ Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make an application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county and the court for the cost of services rendered at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed sixty dollars (\$60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars (\$60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in

which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) Any determination of amount made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

**Comment.** Subdivision (a) of Section 1203.4a is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 1210.1 (amended). Probation for nonviolent drug possession**

SEC. \_\_\_\_ . Section 1210.1 of the Penal Code is amended to read:

1210.1. (a) Notwithstanding any other provision of law, and except as provided in subdivision (b), any person convicted of a nonviolent drug possession offense shall receive probation. As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court shall impose appropriate drug testing as a condition of probation. The court may also impose, as a condition of probation, participation in vocational training, family counseling, literacy training and/or community service. A court may not impose incarceration as an additional condition of probation. Aside from the limitations imposed in this subdivision, the trial court is not otherwise limited in the type of probation conditions it may impose. Probation shall be imposed by suspending the imposition of sentence. No person shall be denied the opportunity to benefit from the provisions of the Substance Abuse and Crime Prevention Act of 2000 based solely upon evidence of a co-occurring psychiatric or developmental disorder. To the greatest extent possible, any person who is convicted of, and placed on probation pursuant to this section for a nonviolent drug possession offense shall be monitored by the court through the use of a dedicated court calendar and the incorporation of a collaborative court model of oversight that includes close collaboration with treatment providers and probation, drug testing commensurate with treatment needs, and supervision of progress through review hearings.

In addition to any fine assessed under other provisions of law, the trial judge may require any person convicted of a nonviolent drug possession offense who is reasonably able to do so to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any defendant who previously has been convicted of one or more violent or serious felonies as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, respectively, unless the nonviolent drug possession offense occurred after a period of five years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction other than a nonviolent drug possession offense, or a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(2) Any defendant who, in addition to one or more nonviolent drug possession offenses, has been convicted in the same proceeding of a misdemeanor not related to the use of drugs or any felony.

(3) Any defendant who, while armed with a deadly weapon, with the intent to use the same as a deadly weapon, unlawfully possesses or is under the influence of any controlled substance identified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code.

(4) Any defendant who refuses drug treatment as a condition of probation.

(5) Any defendant who has two separate convictions for nonviolent drug possession offenses, has participated in two separate courses of drug treatment pursuant to subdivision (a), and is found by the court, by clear and convincing evidence, to be unamenable to any and all forms of available drug treatment, as defined in subdivision (b) of Section 1210. Notwithstanding any other provision of law, the trial court shall sentence that defendant to 30 days in jail.

(c)(1) Any defendant who has previously been convicted of at least three non-drug-related felonies for which the defendant has served three separate prison terms within the meaning of subdivision (b) of Section 667.5 shall be presumed eligible for treatment under subdivision (a). The court may exclude ~~such a~~ the defendant from treatment under subdivision (a) where the court, pursuant to the motion of the prosecutor or its own motion, finds that the defendant poses a present danger to the safety of others and would not benefit from a drug treatment program. The court shall, on the record, state its findings, and the reasons for those findings.

(2) Any defendant who has previously been convicted of a misdemeanor or felony at least five times within the prior 30 months shall be presumed to be eligible for treatment under subdivision (a). The court may exclude ~~such a~~ the defendant from treatment under subdivision (a) if the court, pursuant to the motion of the prosecutor, or on its own motion, finds that the defendant poses a present danger to the safety of others or would not benefit from a drug treatment program. The court shall, on the record, state its findings and the reasons for those findings.

(d) Within seven days of an order imposing probation under subdivision (a), the probation department shall notify the drug treatment provider designated to provide drug treatment under subdivision (a). Within 30 days of receiving that notice, the treatment provider shall prepare a treatment plan and forward it to the probation department for distribution to the court and counsel. The treatment provider shall provide to the probation department standardized treatment progress reports, with minimum data elements as determined by the department, including all drug testing results. At a minimum, the reports shall be provided to the court every 90 days, or more frequently, as the court directs.

(1) If at any point during the course of drug treatment the treatment provider notifies the probation department and the court that the defendant is unamenable to the drug treatment being provided, but may be amenable to other drug treatments or related programs, the probation department may move the court to modify the

terms of probation, or on its own motion, the court may modify the terms of probation after a hearing to ensure that the defendant receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the probation department and the court that the defendant is unamenable to the drug treatment provided and all other forms of drug treatment programs pursuant to subdivision (b) of Section 1210, the probation department may move to revoke probation. At the revocation hearing, if it is proved that the defendant is unamenable to all drug treatment programs pursuant to subdivision (b) of Section 1210, the court may revoke probation.

(3) Drug treatment services provided by subdivision (a) as a required condition of probation may not exceed 12 months, unless the court makes a finding supported by the record, that the continuation of treatment services beyond 12 months is necessary for drug treatment to be successful. If ~~such a~~ that finding is made, the court may order up to two six-month extensions of treatment services. The provision of treatment services under the Substance Abuse and Crime Prevention Act of 2000 shall not exceed 24 months.

(e)(1) At any time after completion of drug treatment and the terms of probation, the court shall conduct a hearing, and if the court finds that the defendant successfully completed drug treatment, and substantially complied with the conditions of probation, including refraining from the use of drugs after the completion of treatment, the conviction on which the probation was based shall be set aside and the court shall dismiss the indictment, complaint, or information against the defendant. In addition, except as provided in paragraphs (2) and (3), both the arrest and the conviction shall be deemed never to have occurred. The defendant may additionally petition the court for a dismissal of charges at any time after completion of the prescribed course of drug treatment. Except as provided in paragraph (2) or (3), the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

(2) Dismissal of an indictment, complaint, or information pursuant to paragraph (1) does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under ~~Section 12021~~ Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Except as provided below, after an indictment, complaint, or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

Regardless of his or her successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department

of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information, complaint, or indictment under this section does not relieve a defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

(f)(1) If probation is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section. The court may modify or revoke probation if the alleged violation is proved.

(2) If a defendant receives probation under subdivision (a), and violates that probation either by committing an offense that is not a nonviolent drug possession offense, or by violating a non-drug-related condition of probation, and the state moves to revoke probation, the court may remand the defendant for a period not exceeding 30 days during which time the court may receive input from treatment, probation, the state, and the defendant, and the court may conduct further hearings as it deems appropriate to determine whether or not probation should be reinstated under this section. If the court reinstates the defendant on probation, the court may modify the treatment plan and any other terms of probation, and continue the defendant in a treatment program under the Substance Abuse and Crime Prevention Act of 2000. If the court reinstates the defendant on probation, the court may, after receiving input from the treatment provider and probation, if available, intensify or alter the treatment plan under subdivision (a), and impose sanctions, including jail sanctions not exceeding 30 days, a tool to enhance treatment compliance.

(3)(A) If a defendant receives probation under subdivision (a), and violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may intensify or alter the drug treatment plan and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 48 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among

other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in ~~such a~~ that type of facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(B) If a defendant receives probation under subdivision (a), and for the second time violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or is unamenable to drug treatment. In determining whether a defendant is unamenable to drug treatment, the court may consider, to the extent relevant, whether the defendant (i) has committed a serious violation of rules at the drug treatment program, (ii) has repeatedly committed violations of program rules that inhibit the defendant's ability to function in the program, or (iii) has continually refused to participate in the program or asked to be removed from the program. If the court does not revoke probation, it may intensify or alter the drug treatment plan, and may, in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, impose sanctions including jail sanctions that may not exceed 120 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions,

medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in the facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. Detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(C) If a defendant receives probation under subdivision (a), and for the third or subsequent time violates that probation either by committing a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third or subsequent time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a) unless the court determines that the defendant is not a danger to the community and would benefit from further treatment under subdivision (a). The court may then either intensify or alter the treatment plan under subdivision (a) or transfer the defendant to a highly structured drug court. If the court continues the defendant in treatment under subdivision (a), or drug court, the court may impose appropriate sanctions including jail sanctions as the court deems appropriate.

(D) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may modify or alter the treatment plan, and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not

exceed 48 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment, including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in ~~such a~~ that type of facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(E) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation a second time either by committing a nonviolent drug possession offense, or a misdemeanor for simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or any activity similar to those listed in subdivision (d) of Section 1210, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or that the defendant is unamenable to drug treatment. If the court does not revoke probation, it may modify or alter the treatment plan, and in addition, if the violation does not involve the recent use of drugs as a circumstance of the violation, including, but not limited to, violations relating to failure to appear at treatment or court, noncompliance with treatment, and failure to report for drug testing, the court may impose sanctions including jail sanctions that may not exceed 120 hours of continuous custody as a tool to enhance treatment compliance and impose other changes in the terms and conditions of probation. The court shall consider, among other factors, the seriousness of the violation, previous treatment compliance, employment, education, vocational training, medical conditions, medical treatment including narcotics replacement treatment, and including the opinion of the defendant's licensed and treating physician if immediately available and presented at the hearing, child support obligations, and

family responsibilities. The court shall consider additional conditions of probation, which may include, but are not limited to, community service and supervised work programs. If one of the circumstances of the violation involves recent drug use, as well as other circumstances of violation, and the circumstance of recent drug use is demonstrated to the court by satisfactory evidence and a finding made on the record, the court may, after receiving input from treatment and probation, if available, direct the defendant to enter a licensed detoxification or residential treatment facility, and if there is no bed immediately available in ~~such a~~ that type of facility, the court may order that the defendant be confined in a county jail for detoxification purposes only, if the jail offers detoxification services, for a period not to exceed 10 days. The detoxification services must provide narcotic replacement therapy for those defendants presently actually receiving narcotic replacement therapy.

(F) If a defendant on probation at the effective date of this act for a nonviolent drug offense violates that probation a third or subsequent time either by committing a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third or subsequent time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a), unless the court determines that the defendant is not a danger to the community and would benefit from further treatment under subdivision (a). The court may then either intensify or alter the treatment plan under subdivision (a) or transfer the defendant to a highly structured drug court. If the court continues the defendant in treatment under subdivision (a), or drug court, the court may impose appropriate sanctions including jail sanctions.

(g) The term “drug-related condition of probation” shall include a probationer’s specific drug treatment regimen, employment, vocational training, educational programs, psychological counseling, and family counseling.

**Comment.** Subdivision (e) of Section 1210.1 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Subdivisions (c), (d), and (f) are amended to make technical revisions.

**Penal Code § 1601 (amended). Availability of outpatient status**

SEC. \_\_\_\_. Section 1601 of the Penal Code is amended to read:

1601. (a) In the case of any person charged with and found incompetent on a charge of, convicted of, or found not guilty by reason of insanity of murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 in which the victim suffers intentionally inflicted great bodily injury, robbery or carjacking with a deadly or dangerous weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, a violation of paragraph (1) or (4) of subdivision (a) of Section 262, a violation of Section 459 in the first degree, a

violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section ~~12303.1, 12303.2, 12303.3, 12308, 12309, or 12310~~ 18715, 18725, 18740, 18745, 18750, or 18755, or any felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, outpatient status under this title shall not be available until that person has actually been confined in a state hospital or other facility for 180 days or more after having been committed under the provisions of law specified in Section 1600.

(b) In the case of any person charged with, and found incompetent on a charge of, or convicted of, any misdemeanor or any felony other than those described in subdivision (a), or found not guilty of any misdemeanor by reason of insanity, outpatient status under this title may be granted by the court prior to actual confinement in a state hospital or other treatment facility under the provisions of law specified in Section 1600.

**Comment.** Subdivision (a) of Section 1601 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 2933.5 (amended). Persons ineligible for credit on term of imprisonment**

SEC. \_\_\_\_\_. Section 2933.5 of the Penal Code is amended to read:

2933.5. (a)(1) Notwithstanding any other provision of law, every person who is convicted of any felony offense listed in paragraph (2), and who previously has been convicted two or more times, on charges separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in subdivision (g) of Section 667.5, of any offense or offenses listed in paragraph (2), shall be ineligible to earn credit on his or her term of imprisonment pursuant to this chapter.

(2) As used in this subdivision, “felony offense” includes any of the following:

(A) Murder, as defined in Sections 187 and 189.

(B) Voluntary manslaughter, as defined in subdivision (a) of Section 192.

(C) Mayhem as defined in Section 203.

(D) Aggravated mayhem, as defined in Section 205.

(E) Kidnapping, as defined in Section 207, 209, or 209.5.

(F) Assault with vitriol, corrosive acid, or caustic chemical of any nature, as described in Section 244.

(G) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(H) Sodomy by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 286.

(I) Sodomy while voluntarily acting in concert, as described in subdivision (d) of Section 286.

(J) Lewd or lascivious acts on a child under the age of 14 years, as described in subdivision (b) of Section 288.

(K) Oral copulation by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 288a.

(L) Continuous sexual abuse of a child, as described in Section 288.5.

(M) Sexual penetration, as described in subdivision (a) of Section 289.

(N) Exploding a destructive device or explosive with intent to injure, as described in Section ~~12303.3~~ 18740, with intent to murder, as described in Section ~~12308~~ 18745, or resulting in great bodily injury or mayhem, as described in Section ~~12309~~ 18750.

(O) Any felony in which the defendant personally inflicted great bodily injury, as provided in Section ~~12022.53~~ or ~~12022.7~~.

(b) A prior conviction of an offense listed in subdivision (a) shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law.

(c) This section shall apply whenever the present felony is committed on or after the effective date of this section, regardless of the date of commission of the prior offense or offenses resulting in credit-earning ineligibility.

(d) This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement terms, or probation ineligibility and habitual offender provisions authorized under any other section.

**Comment.** Subdivision (a) of Section 2933.5 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 2962 (amended). Treatment by Department of Mental Health as parole condition**

SEC. \_\_\_\_ . Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

The term “severe mental disorder” means an illness or disease or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term “severe mental disorder” as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

The term “remission” means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or

psychosocial support. A person “cannot be kept in remission without treatment” if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner’s parole or release.

(d)(1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner’s criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental disorder was a cause of, or aggravated, the prisoner’s criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) Only if both independent professionals who evaluate the prisoner pursuant to paragraph (2) concur with the chief psychiatrist’s certification of the issues described in paragraph (2), shall this subdivision be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the

purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) Any robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(E) Carjacking, as defined in subdivision (a) of Section 215, if it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the carjacking.

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(G) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(H) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(I) Lewd acts on a child under the age of 14 years in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 where the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 where the act posed a substantial danger of physical harm to others.

(M) Any felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section ~~12308~~ 18745.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in such a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph, substantial physical harm shall not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) As used in this chapter, “substantial danger of physical harm” does not require proof of a recent overt act.

**Comment.** Subdivision (e) of Section 2962 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 3057 (amended). Confinement pursuant to parole revocation**

SEC. \_\_\_\_ . Section 3057 of the Penal Code is amended to read:

3057. (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed 12 months, except as provided in subdivision (c).

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 which was unexpired at the time of each revocation.

(c) Notwithstanding the limitations in subdivision (a) and in Section 3060.5 upon confinement pursuant to a parole revocation, the parole authority may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation. Upon a finding of good cause to believe that a parolee has committed a subsequent act of misconduct and utilizing procedures governing parole revocation proceedings, the parole authority may extend the period of confinement pursuant to parole revocation as follows: (1) not more than 180 days for an act punishable as a felony, whether or not prosecution is undertaken, (2) not more than 90 days for an act punishable as a misdemeanor, whether or not prosecution is undertaken, and (3) not more than 30 days for an act defined as a serious disciplinary offense pursuant to subdivision (a) of Section 2932.

(d)(1) Except for parolees specified in paragraph (2), any revocation period imposed under subdivision (a) may be reduced in the same manner and to the same extent as a term of imprisonment may be reduced by worktime credits under Section 2933. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932.

Worktime credit forfeited shall not be restored.

(2) The following parolees shall not be eligible for credit under this subdivision:

(A) Parolees who are sentenced under Section 1168 with a maximum term of life imprisonment.

(B) Parolees who violated a condition of parole relating to association with specified persons, entering prohibited areas, attendance at parole outpatient clinics, or psychiatric attention.

(C) Parolees who were revoked for conduct described in, or that could be prosecuted under any of the following sections, whether or not prosecution is undertaken: Section 189, Section 191.5, subdivision (a) of Section 192,

subdivision (a) of Section 192.5, Section 203, 207, 211, 215, 217.1, or 220, subdivision (b) of Section 241, Section 244, paragraph (1) or (2) of subdivision (a) of Section 245, paragraph (2) or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (c) or (d) of Section 286, Section 288, subdivision (c) or (d) of Section 288a, subdivision (a) of Section 289, 347, or 404, subdivision (a) of Section 451, Section ~~12020, 12021~~ 12022, 12022.5, 12022.53, 12022.7, 12022.8, ~~12025, or 12560, or 25400, Chapter 2 (commencing with Section 29800)~~ of Division 9 of Title 4 of Part 6, any provision listed in Section 16590, or Section 664 for any attempt to engage in conduct described in or that could be prosecuted under any of the above-mentioned sections.

(D) Parolees who were revoked for any reason if they had been granted parole after conviction of any of the offenses specified in subparagraph (C).

(E) Parolees who the parole authority finds at a revocation hearing to be unsuitable for reduction of the period of confinement because of the circumstances and gravity of the parole violation, or because of prior criminal history.

**Comment.** Subdivision (d) of Section 3057 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. That subdivision is also amended to eliminate an obsolete cross-reference to former Section 12560, which was repealed. See 1990 Cal. Stat. ch. 9, § 14.

**Penal Code § 4852.03 (amended). Period of rehabilitation**

SEC. \_\_\_\_ . Section 4852.03 of the Penal Code is amended to read:

4852.03. (a) The period of rehabilitation shall begin to run upon the discharge of the petitioner from custody due to his or her completion of the term to which he or she was sentenced or upon his or her release on parole or probation, whichever is sooner. For purposes of this chapter, the period of rehabilitation shall constitute five years' residence in this state, plus a period of time determined by the following rules:

(1) To the five years there shall be added four years in the case of any person convicted of violating Section 187, 209, 219, 4500 or ~~12310~~ 18755 of this code, or subdivision (a) of Section 1672 of the Military and Veterans Code, or of committing any other offense which carries a life sentence.

(2) To the five years there shall be added five years in the case of any person convicted of committing any offense or attempted offense for which sex offender registration is required pursuant to Section 290, except for convictions for violations of subdivision (b), (c), or (d) of Section 311.2, or of Section 311.3, 311.10, or 314. For those convictions, two years shall be added to the five years imposed by this section.

(3) To the five years there shall be added two years in the case of any person convicted of committing any offense that is not listed in paragraph (1) or paragraph (2) and that does not carry a life sentence.

(4) The trial court hearing the application for the certificate of rehabilitation may, if the defendant was ordered to serve consecutive sentences, order that his or her statutory period of rehabilitation be extended for an additional period of time which when combined with the time already served will not exceed the period prescribed by statute for the sum of the maximum penalties for all the crimes.

(5) Any person who was discharged after completion of his or her term or was released on parole before May 13, 1943, is not subject to the periods of rehabilitation set forth in these rules.

(b) Unless and until the period of rehabilitation, as stipulated in this section, has passed, the petitioner shall be ineligible to file his or her petition for a certificate of rehabilitation with the court. Any certificate of rehabilitation that is issued and under which the petitioner has not fulfilled the requirements of this chapter shall be void.

(c) A change of residence within this state does not interrupt the period of rehabilitation prescribed by this section.

**Comment.** Subdivision (a) of Section 4852.03 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 4852.17 (amended). Certificate of rehabilitation or grant of pardon**

SEC. \_\_\_\_ . Section 4852.17 of the Penal Code is amended to read:

4852.17. Whenever a person is issued a certificate of rehabilitation or granted a pardon from the Governor under this chapter, the fact shall be immediately reported to the Department of Justice by the court, Governor, officer, or governmental agency by whose official action the certificate is issued or the pardon granted. The Department of Justice shall immediately record the facts so reported on the former criminal record of the person, and transmit those facts to the Federal Bureau of Investigation at Washington, D.C. When the criminal record is thereafter reported by the department, it shall also report the fact that the person has received a certificate of rehabilitation, or pardon, or both.

Whenever a person is granted a full and unconditional pardon by the Governor, based upon a certificate of rehabilitation, the pardon shall entitle the person to exercise thereafter all civil and political rights of citizenship, including but not limited to: (1) the right to vote; (2) the right to own, possess, and keep any type of firearm that may lawfully be owned and possessed by other citizens; except that this right shall not be restored, and Sections ~~12001 and 12021~~ 17800 and 23510 and Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6 shall apply, if the person was ever convicted of a felony involving the use of a dangerous weapon.

**Comment.** Section 4852.17 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 4854 (amended). Effect of pardon on rights relating to firearms**

SEC. \_\_\_\_\_. Section 4854 of the Penal Code is amended to read:

4854. In the granting of a pardon to a person, the Governor may provide that the person is entitled to exercise the right to own, possess and keep any type of firearm that may lawfully be owned and possessed by other citizens; except that this right shall not be restored, and Sections ~~12001 and 12021~~ 17800 and 23510 and Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6 shall apply, if the person was ever convicted of a felony involving the use of a dangerous weapon.

**Comment.** Section 4854 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 11105 (amended). State and federal summary criminal history information furnished by Department of Justice**

SEC. \_\_\_\_\_. Section 11105 of the Penal Code is amended to read:

11105. (a)(1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) “State summary criminal history information” means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) “State summary criminal history information” does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or parole revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) Any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(16) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of level 1 humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving criminal record offender information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(10)(A) Any public utility, as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal-level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal-level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(D)(i) Authority for a cable corporation to request state or federal-level criminal history information under this paragraph shall commence July 1, 2005.

(ii) Authority for a public utility to request federal-level criminal history information under this paragraph shall commence July 1, 2005.

(11) To any campus of the California State University or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including,

but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and ~~12054~~ 26190 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the

purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided however that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(l)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101 of the Penal Code, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(m)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.

(n)(1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (9) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for

which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 261 or 550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 550 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p)(1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract

with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

**Comment.** Subdivision (e) of Section 11105 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 11105.03 (amended). Criminal summary history information**

SEC. \_\_\_\_ . Section 11105.03 of the Penal Code is amended to read:

11105.03. (a) Subject to the requirements and conditions set forth in this section and Section 11105, local law enforcement agencies are hereby authorized to provide state criminal summary history information obtained through CLETS for the purpose of screening prospective participants and prospective and current staff of a regional, county, city, or other local public housing authority, at the request of the chief executive officer of the authority or his or her designee, upon a showing by that authority that the authority manages a Section 8 housing program pursuant to federal law (U.S. Housing Act of 1937), or operates housing at which children under the age of 18 years reside or operates housing for persons categorized as aged, blind, or disabled.

(b) The following requirements shall apply to information released by local law enforcement agencies pursuant to subdivision (a):

(1) Local law enforcement agencies shall not release any information unless it relates to a conviction for a serious felony, as defined in subdivision (c) of Section 1192.7, a conviction for any offense punishable under Section 273.5, 422.6, 422.7, 422.75, 422.9, or 1170.75, 12020, 12021 or 12021.1 or under Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6, or under any provision listed in Section 16590, a conviction under Section 273.6 that involves a violation of a protective order, as defined in Section 6218 of the Family Code, or a conviction for any felony offense that involves controlled substances or alcoholic beverages, or any felony offense that involves any activity related to controlled substances or alcoholic beverages, or a conviction for any offense that involves domestic violence, as defined in Section 13700.

(2) Local law enforcement agencies shall not release any information concerning any arrest for an offense that did not result in a conviction.

(3) Local law enforcement agencies shall not release any information concerning any offense committed by a person who was under 18 years of age at the time he or she committed the offense.

(4) Local law enforcement agencies shall release any information concerning any conviction or release from custody that occurred within 10 years of the date on which the request for information is submitted to the Attorney General, unless the

conviction was based upon a felony offense that involved controlled substances or alcoholic beverages or a felony offense that involved any activity related to controlled substances or alcoholic beverages. Where a conviction was based on any of these felony offenses, local law enforcement agencies shall release any information concerning this conviction if the conviction occurred within five years of the date on which a request for the information was submitted.

(5) Notwithstanding paragraph (4), if information that meets the requirements of paragraphs (2) to (4), inclusive, is located and the information reveals a conviction of an offense specified in paragraph (1), local law enforcement agencies shall release all summary criminal history information concerning the person whether or not the information meets the requirements of paragraph (4), provided, however, that the information meets the requirements of paragraphs (1) to (3), inclusive.

(6) Information released to the local public housing authority pursuant to this section shall also be released to parole or probation officers at the same time.

(c) State summary criminal history information shall be used by the chief executive officer of the housing authority or a designee only for purposes of identifying prospective participants in subsidized programs and prospective and current staff who have access to residences, whose criminal history is likely to pose a risk to children under the age of 18 years or persons categorized as aged, blind, or disabled living in the housing operated by the authority.

(d) If a housing authority obtains summary criminal history information for the purpose of screening a prospective participant pursuant to this section, it shall review and evaluate that information in the context of other available information and shall not evaluate the person's suitability as a prospective participant based solely on his or her past criminal history.

(e) If a housing authority determines that a prospective participant is not eligible as a resident, it shall promptly notify him or her of the basis for its determination and, upon request, shall provide him or her within a reasonable time after the determination is made with an opportunity for an informal hearing on the determination in accordance with Section 960.207 of Title 24 of the Code of Federal Regulations.

(f) Any information obtained from state summary criminal history information pursuant to this section is confidential and the recipient public housing authority shall not disclose or use the information for any purpose other than that authorized by this section. The state summary criminal history information in the possession of the authority and all copies made from it shall be destroyed not more than 30 days after the authority's final decision whether to act on the housing status of the individual to whom the information relates.

(g) The local public housing authority receiving state summary criminal history information pursuant to this section shall adopt regulations governing the receipt, maintenance, and use of the information. The regulations shall include provisions that require notice that the authority has access to criminal records of participants and employees who have access to programs.

(h) Use of this information is to be consistent with Title 24 of the Code of Federal Regulations and the current regulations adopted by the housing authority using the information.

(i) Nothing in this section shall be construed to require a housing authority to request and review an applicant's criminal history.

(j) The California Housing Authorities Association, after compiling data from all public housing authorities that receive summary criminal information pursuant to this chapter, shall report its findings based upon this data to the Legislature prior to January 1, 2000.

**Comment.** Subdivision (b) of Section 11105.03 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 11106 (amended). Retention of records**

SEC. \_\_\_\_ . Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section ~~12050 of the Penal Code~~ 26150, 26155, 26170, or 26215, information reported to the Department of Justice pursuant to Section ~~12053~~ 26225, dealers' records of sales of firearms, reports provided pursuant to ~~Section 12072 or 12078~~ Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, reports provided pursuant to ~~Section 12071~~ Sections 26700 to 26915, inclusive, that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b)(1) Except as provided in subdivision (d), the Attorney General shall not retain or compile any information from reports filed pursuant to ~~subdivision (a) of Section 12078~~ any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns, from forms submitted pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or from dealers' records of sales for firearms that are not handguns. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or of the dealers' records of sales for firearms that are not handguns shall be destroyed within five days of the clearance by the Attorney General, unless the

purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to ~~subdivision (a) of Section 12078~~ any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a ~~firearms~~ firearm transaction record, as defined in ~~paragraph (5) of subdivision (c) of Section 12071~~ Section 16550, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to ~~Section 12071~~ Sections 26700 to 26915, inclusive.

(3) A violation of this subdivision is a misdemeanor.

(c)(1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to ~~Sections 12071, 12072, 12078, 12082 and former Section 12084~~ or any other law the following provisions, as to handguns and maintain a registry ~~thereof~~ thereof:

(A) Sections 26700 to 26915, inclusive.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular handgun as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to ~~Section 12078~~ any provision listed in subdivision (a) of Section 16585 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular handgun and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to ~~Section 12078~~ any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular handgun acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular handgun.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(d)(1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to ~~Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or 12285~~ (i) Section 26225, (ii) Sections 26700 to 26915, inclusive, (iii) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, (iv) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, (v) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, (vi) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, (vii) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, or (viii) any provision listed in subdivision (a) of Section 16585, if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case

shall immediately provide the victim of the crime with a “Victims of Domestic Violence” card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.

**Comment.** Section 11106 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. An erroneous cross-reference to nonexistent “paragraph (5) of subdivision (c) of Section 12071” has been replaced with a cross-reference to Section 16550, which continues former Section 12071(c)(4)(A) without substantive change.

**Penal Code § 11108 (amended). Submission of descriptions of stolen property**

SEC. \_\_\_\_ . Section 11108 of the Penal Code is amended to read:

11108. (a) Each sheriff or police chief executive shall submit descriptions of serialized property, or nonserialized property that has been uniquely inscribed, which has been reported stolen, lost, found, recovered, held for safekeeping, or under observation, directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property, as the case may be.

(b) Information about a firearm entered into the automated system for firearms shall remain in the system until the reported firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error.

(c) Any costs incurred by the Department of Justice to implement subdivision (b) shall be reimbursed from funds other than fees charged and collected pursuant to ~~subdivisions (e) and (f) of Section 12076~~ Sections 28225 and 28230.

**Comment.** Subdivision (c) of Section 11108 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 11413 (amended). Terrorism**

SEC. \_\_\_\_ . Section 11413 of the Penal Code is amended to read:

11413. (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years, and a fine not exceeding ten thousand dollars (\$10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, mosque, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(5) Any bookstore or public or private library.

(6) Any building or facility designated as a courthouse.

(7) The home or office of a judicial officer.

(8) Any building or facility regularly occupied by county probation department personnel in which the employees perform official duties of the probation department.

(9) Any private property, if the property was targeted in whole or in part because of any of the actual or perceived characteristics of the owner or occupant of the property listed in subdivision (a) of Section 422.55.

(10) Any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

(c) As used in this section, “judicial officer” means a magistrate, judge, justice, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of any state or federal court located in this state.

(d) As used in this section, “terrorizing” means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(e) Nothing in this section shall be construed to prohibit the prosecution of any person pursuant to Section ~~12303.3~~ 18740 or any other provision of law in lieu of prosecution pursuant to this section.

**Comment.** Subdivision (e) of Section 11413 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 11418 (amended). Weapons of mass destruction**

SEC. \_\_\_\_ . Section 11418 of the Penal Code is amended to read:

11418. (a)(1) Any person, without lawful authority, who possesses, develops, manufactures, produces, transfers, acquires, or retains any weapon of mass destruction, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(2) Any person who commits a violation of paragraph (1) and who has been previously convicted of Section 11411, 11412, 11413, 11418, 11418.1, 11418.5, 11419, 11460, ~~12303.1, 12303.2, or 12303.3~~ 18715, 18725, or 18740 shall be punished by imprisonment in the state prison for 5, 10, or 15 years.

(b)(1) Any person who uses or directly employs against another person a weapon of mass destruction in a form that may cause widespread, disabling illness or injury in human beings shall be punished by imprisonment in the state prison for life.

(2) Any person who uses or directly employs against another person a weapon of mass destruction in a form that may cause widespread great bodily injury or death and causes the death of any human being shall be punished by imprisonment in the state prison for life without the possibility of parole. Nothing in this paragraph shall prevent punishment instead under Section 190.2.

(3) Any person who uses a weapon of mass destruction in a form that may cause widespread damage to or disruption of the food supply or “source of drinking water” as defined in subdivision (d) of Section 25249.11 of the Health and Safety Code shall be punished by imprisonment in the state prison for 5, 8, or 12 years and by a fine of not more than one hundred thousand dollars (\$100,000).

(4) Any person who maliciously uses against animals, crops, or seed and seed stock, a weapon of mass destruction in a form that may cause widespread damage to or substantial diminution in the value of stock animals or crops, including seeds used for crops or product of the crops, shall be punished by imprisonment in the state prison for 4, 8, or 12 years and by a fine of not more than one hundred thousand dollars (\$100,000).

(c) Any person who uses a weapon of mass destruction in a form that may cause widespread and significant damage to public natural resources, including coastal waterways and beaches, public parkland, surface waters, ground water, and wildlife, shall be punished by imprisonment in the state prison for 3, 4, or 6 years.

(d)(1) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for use in any crime described in subdivision (b) shall be punished by imprisonment in the state prison for 4, 8, or 12 years and by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(2) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for use in any crime described in subdivision (c) shall be punished by imprisonment in the state prison for three, six, or nine years and by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

**Comment.** Subdivision (a) of Section 11418 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Penal Code § 11460 (amended). Paramilitary organizations**

SEC. \_\_\_\_ . Section 11460 of the Penal Code is amended to read:

11460. (a) Any two or more persons who assemble as a paramilitary organization for the purpose of practicing with weapons shall be punished by

imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

As used in this subdivision, “paramilitary organization” means an organization which is not an agency of the United States government or of the State of California, or which is not a private school meeting the requirements set forth in Section 48222 of the Education Code, but which engages in instruction or training in guerrilla warfare or sabotage, or which, as an organization, engages in rioting or the violent disruption of, or the violent interference with, school activities.

(b)(1) Any person who teaches or demonstrates to any other person the use, application, or making of any firearm, explosive, or destructive device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that these objects or techniques will be unlawfully employed for use in, or in the furtherance of a civil disorder, or any person who assembles with one or more other persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive, or destructive device, or technique capable of causing injury or death to persons, with the intent to cause or further a civil disorder, shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

Nothing in this subdivision shall make unlawful any act of any peace officer or a member of the military forces of this state or of the United States, performed in the lawful course of his or her official duties.

(2) As used in this section:

(A) “Civil disorder” means any disturbance involving acts of violence which cause an immediate danger of or results in damage or injury to the property or person of any other individual.

(B) “Destructive device” has the same meaning as in Section ~~12301~~ 16460.

(C) “Explosive” has the same meaning as in Section 12000 of the Health and Safety Code.

(D) “Firearm” means any device designed to be used as a weapon, or which may readily be converted to a weapon, from which is expelled a projectile by the force of any explosion or other form of combustion, or the frame or receiver of this weapon.

(E) “Peace officer” means any peace officer or other officer having the powers of arrest of a peace officer, specified in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

**Comment.** Subdivision (b) of Section 11460 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 13730 (amended). Domestic violence-related calls for assistance**

SEC. \_\_\_\_ . Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the

department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. The report shall include at least all of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

(3) A notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to ~~Section 12028.5~~ Division 4 (commencing with Section 18250) of Title 2 of Part 6.

**Comment.** Subdivision (c) of Section 13730 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## PUBLIC CONTRACT CODE

### **Pub. Cont. Code § 10334 (amended). Restriction on state employee from acquiring state goods**

SEC. \_\_\_\_\_. Section 10334 of the Public Contract Code is amended to read:

10334. (a) No state employee shall acquire any goods from the state, unless the goods are offered to the general public in the regular course of the state's business on the same terms and conditions as those applicable to the employee. "State employee," as used in this section, means any employee of the state included within Section 82009 of the Government Code, and all officers and employees

included within Section 4 of Article VII of the California Constitution, except those persons excluded from the definition of “designated employee” under the last paragraph of Section 82019 of the Government Code.

(b) Notwithstanding subdivision (a), any peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, employed by the State of California for a period of more than 120 months who has been duly retired through a service retirement or a peace officer retiring from a job-incurred disability not related to a mental or emotional disorder and who has been granted the legal right to carry a concealed firearm pursuant to ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code may be authorized by the person’s department head to purchase his or her state-issued handgun. Disability retired peace officers need not meet the 120-month employment requirement. The cost of the handgun shall be the fair market value as listed in the annual Blue Book of Gun Values or replacement cost, whichever is less, of the handgun issued as determined by the appointing power, plus a charge for the cost of handling. The retiring officer shall request to purchase his or her handgun in writing to the department within 30 calendar days of his or her retirement date.

(c) Notwithstanding subdivision (a), any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code employed by the State of California who is authorized to carry firearms may purchase his or her state-issued service firearm if the person’s department head directs the department to change its state-issued service weapon system. The cost of the service firearm shall be the fair market value as listed in the annual Blue Book of Gun Values or replacement cost, whichever is less, of the firearm issued as determined by the department head, plus a charge for the cost of handling. The requesting officer shall request to purchase his or her firearm in writing to the department within 10 calendar days of receiving the new state-issued weapon.

**Comment.** Subdivision (b) of Section 10334 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

## WELFARE & INSTITUTIONS CODE

### **Welf. & Inst. Code § 676 (amended). Admission to juvenile court hearing**

SEC. \_\_\_\_ . Section 676 of the Welfare and Institutions Code is amended to read:

676. (a) Unless requested by the minor concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a juvenile court hearing. Nothing in this section shall preclude the attendance of up to two family members of a prosecuting witness for the support of that witness, as authorized by Section 868.5 of the Penal Code. The judge or referee may nevertheless admit those persons he or she deems to have a direct and legitimate interest in the particular case or the work of the court.

However, except as provided in subdivision (b), members of the public shall be admitted, on the same basis as they may be admitted to trials in a court of criminal jurisdiction, to hearings concerning petitions filed pursuant to Section 602 alleging that a minor is a person described in Section 602 by reason of the violation of any one of the following offenses:

- (1) Murder.
- (2) Arson of an inhabited building.
- (3) Robbery while armed with a dangerous or deadly weapon.
- (4) Rape with force or violence or threat of great bodily harm.
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (7) Any offense specified in subdivision (a) of Section 289 of the Penal Code.
- (8) Kidnapping for ransom.
- (9) Kidnapping for purpose of robbery.
- (10) Kidnapping with bodily harm.
- (11) Assault with intent to murder or attempted murder.
- (12) Assault with a firearm or destructive device.
- (13) Assault by any means of force likely to produce great bodily injury.
- (14) Discharge of a firearm into an inhabited dwelling or occupied building.
- (15) Any offense described in Section 1203.09 of the Penal Code.
- (16) Any offense described in Section 12022.5 or 12022.53 of the Penal Code.
- (17) Any felony offense in which a minor personally used a weapon ~~listed in subdivision (a) of Section 12020~~ described in any provision listed in Section 16590 of the Penal Code.
- (18) Burglary of an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, if the minor previously has been adjudged a ward of the court by reason of the commission of any offense listed in this section, including an offense listed in this paragraph.
- (19) Any felony offense described in Section 136.1 or 137 of the Penal Code.
- (20) Any offense as specified in Sections 11351, 11351.5, 11352, 11378, 11378.5, 11379, and 11379.5 of the Health and Safety Code.
- (21) Criminal street gang activity which constitutes a felony pursuant to Section 186.22 of the Penal Code.
- (22) Manslaughter as specified in Section 192 of the Penal Code.
- (23) Driveby shooting or discharge of a weapon from or at a motor vehicle as specified in Sections 246, 247, and ~~12034~~ 26100 of the Penal Code.
- (24) Any crime committed with an assault weapon, as defined in Section ~~12276~~ 30510 of the Penal Code, including possession of an assault weapon as specified in ~~subdivision (b) of Section 12280~~ Section 30605 of the Penal Code.
- (25) Carjacking, while armed with a dangerous or deadly weapon.
- (26) Kidnapping, in violation of Section 209.5 of the Penal Code.

(27) Torture, as described in Sections 206 and 206.1 of the Penal Code.

(28) Aggravated mayhem, in violation of Section 205 of the Penal Code.

(b) Where the petition filed alleges that the minor is a person described in Section 602 by reason of the commission of rape with force or violence or great bodily harm; sodomy by force, violence, duress, menace, or threat of great bodily harm; oral copulation by force, violence, duress, menace, or threat of great bodily harm; or any offense specified in Section 289 of the Penal Code, members of the public shall not be admitted to the hearing in either of the following instances:

(1) Upon a motion for a closed hearing by the district attorney, who shall make the motion if so requested by the victim.

(2) During the victim's testimony, if, at the time of the offense the victim was under 16 years of age.

(c) The name of a minor found to have committed one of the offenses listed in subdivision (a) shall not be confidential, unless the court, for good cause, so orders. As used in this subdivision, "good cause" shall be limited to protecting the personal safety of the minor, a victim, or a member of the public. The court shall make a written finding, on the record, explaining why good cause exists to make the name of the minor confidential.

(d) Notwithstanding Sections 827 and 828 and subject to subdivisions (e) and (f), when a petition is sustained for any offense listed in subdivision (a), the charging petition, the minutes of the proceeding, and the orders of adjudication and disposition of the court that are contained in the court file shall be available for public inspection. Nothing in this subdivision shall be construed to authorize public access to any other documents in the court file.

(e) The probation officer or any party may petition the juvenile court to prohibit disclosure to the public of any file or record. The juvenile court shall prohibit the disclosure if it appears that the harm to the minor, victims, witnesses, or public from the public disclosure outweighs the benefit of public knowledge. However, the court shall not prohibit disclosure for the benefit of the minor unless the court makes a written finding that the reason for the prohibition is to protect the safety of the minor.

(f) Nothing in this section shall be applied to limit the disclosure of information as otherwise provided for by law.

(g) The juvenile court shall for each day that the court is in session, post in a conspicuous place which is accessible to the general public, a written list of hearings that are open to the general public pursuant to this section, the location of those hearings, and the time when the hearings will be held.

**Comment.** Subdivision (a) of Section 676 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 707 (amended). Fitness for juvenile court**

SEC. \_\_\_\_ . Section 707 of the Welfare and Institutions Code is amended to read:

707. (a)(1) In any case in which a minor is alleged to be a person described in subdivision (a) of Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

- (A) The degree of criminal sophistication exhibited by the minor.
- (B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (C) The minor's previous delinquent history.
- (D) Success of previous attempts by the juvenile court to rehabilitate the minor.
- (E) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may have been entered already shall constitute evidence at the hearing.

(2)(A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:

- (i) The minor has previously been found to have committed two or more felony offenses.
- (ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.

(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon

evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

- (i) The degree of criminal sophistication exhibited by the minor.
- (ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (iii) The minor's previous delinquent history.
- (iv) Success of previous attempts by the juvenile court to rehabilitate the minor.
- (v) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of the above criteria. In any case in which the hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If the minor is found to be a fit and proper subject to be dealt with under the juvenile court law pursuant to this subdivision, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(3) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses:

- (1) Murder.
- (2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.
- (3) Robbery.
- (4) Rape with force, violence, or threat of great bodily harm.
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) An offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purposes of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) An offense described in Section 1203.09 of the Penal Code.

(17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) A felony offense in which the minor personally used a weapon ~~listed in subdivision (a) of Section 12020~~ described in any provision listed in Section 16590 of the Penal Code.

(19) A felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section ~~12034~~ 26100 of the Penal Code.

(29) The offense described in Section ~~12308~~ 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor

being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

- (1) The degree of criminal sophistication exhibited by the minor.
- (2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (3) The minor's previous delinquent history.
- (4) Success of previous attempts by the juvenile court to rehabilitate the minor.
- (5) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefore recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(d)(1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing an offense enumerated in subdivision (b).

(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:

(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.

(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.

(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:

(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).

(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in criminal conduct by gang members.

(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.

(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(3) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing one or more of the following offenses, if the minor has previously been found to be a person described in Section 602 by reason of the violation of a felony offense, when he or she was 14 years of age or older:

(A) A felony offense in which it is alleged that the victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.

(B) A felony offense committed for the purposes of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceived that the other person had one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.

(C) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang as prohibited by Section 186.22 of the Penal Code.

(4) In any case in which the district attorney or other appropriate prosecuting officer has filed an accusatory pleading against a minor in a court of criminal

jurisdiction pursuant to this subdivision, the case shall then proceed according to the laws applicable to a criminal case. In conjunction with the preliminary hearing as provided in Section 738 of the Penal Code, the magistrate shall make a finding that reasonable cause exists to believe that the minor comes within this subdivision. If reasonable cause is not established, the criminal court shall transfer the case to the juvenile court having jurisdiction over the matter.

(5) For an offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.

(e) A report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

**Comment.** Subdivision (b) of Section 707 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 727 (amended). Court authority over minor adjudged ward of court**

SEC. \_\_\_\_\_. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court. To facilitate coordination and cooperation among governmental agencies, the court may, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to the minor. However, no governmental agency shall be joined as a party in a juvenile court proceeding in which a minor has been ordered committed to the Department of the Youth Authority. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. Nothing in this section shall prohibit

agencies which have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services for the minor.

The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, the court's determination shall be limited to whether the agency has complied with that chapter.

In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section ~~12220~~ 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

In all other cases, the court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The approved home of a relative, or the approved home of a nonrelative, extended family member as defined in Section 362.7. When a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caretaker were the custodial parent of the minor.

(2) A suitable licensed community care facility.

(3) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(4)(A) Every child adjudged a ward of the juvenile court who is residing in a placement as defined in paragraphs (1) to (3), inclusive, shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. No state or local regulation or policy may prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and

that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the child's age, maturity, and developmental level.

(B) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

(b) When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a) and (b), including orders to appear before a county financial evaluation officer and orders directing the parents or guardians to ensure the minor's regular school attendance and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

**Comment.** Subdivision (a) of Section 727 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 1772 (amended). Honorable discharge from Youth Authority Board**

SEC. \_\_\_\_ . Section 1772 of the Welfare and Institutions Code is amended to read:

1772. (a) Subject to subdivision (b), every person honorably discharged from control by the Youth Authority Board who has not, during the period of control by the authority, been placed by the authority in a state prison shall thereafter be

released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, and every person discharged may petition the court which committed him or her, and the court may upon that petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law.

(b) Notwithstanding subdivision (a):

(1) A person described by subdivision (a) shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code. However, that person may be appointed and employed as a peace officer by the Department of the Youth Authority if (A) at least five years have passed since his or her honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since he or she was honorably discharged by the Youth Authority Board, or (B) the person was employed as a peace officer by the Department of the Youth Authority on or before January 1, 1983. No person who is under the jurisdiction of the Department of the Youth Authority shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the Youth Authority Board.

(2) A person described by subdivision (a) is subject to ~~Sections 12021 and 12021.1~~ Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code.

(3) The conviction of a person described by subdivision (a) for an offense listed in subdivision (b) of Section 707 is admissible in a subsequent criminal, juvenile, or civil proceeding if otherwise admissible, if all the following are true:

(A) The person was 16 years of age or older at the time he or she committed the offense.

(B) The person was found unfit to be dealt with under the juvenile court law pursuant to Section 707 because he or she was alleged to have committed an offense listed in subdivision (b) of Section 707.

(C) The person was tried as an adult and convicted of an offense listed in subdivision (b) of Section 707.

(D) The person was committed to the Department of the Youth Authority for the offense referred to in subparagraph (C).

(4) The conviction of a person described by subdivision (a) may be used to enhance the punishment for a subsequent offense.

(5) The conviction of a person who is 18 years of age or older at the time he or she committed the offense is admissible in a subsequent civil, criminal, or juvenile proceeding, if otherwise admissible pursuant to law.

(c) Every person discharged from control by the Youth Authority Board shall be informed of the provisions of this section in writing at the time of discharge.

(d) “Honorably discharged” as used in this section means and includes every person whose discharge is based upon a good record on parole.

**Comment.** Subdivision (b) of Section 1772 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 4514 (amended). Records of person with developmental disability**

SEC. \_\_\_\_\_. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that nothing in this chapter shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, conservator, or limited conservator with access to confidential records, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this chapter shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that

has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

“ \_\_\_\_\_  
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from \_\_\_\_ (fill in the facility, agency or person), I, \_\_\_\_\_, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person’s parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

\_\_\_\_\_  
Signed

- (f) To the courts, as necessary to the administration of justice.
- (g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.
- (h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.
- (i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.
- (j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the

person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on “multidisciplinary personnel” teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident that is not related to the diagnosis and treatment of the resident’s physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of

care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in ~~Section 12020~~ any provision listed in Section 16590 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

(t)(1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of

receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final except for the actual records and documents submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(4) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not,

thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

**Comment.** Subdivision (p) of Section 4514 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 5328.4 (amended). Mandatory release of patient information to law enforcement agencies**

SEC. \_\_\_\_\_. Section 5328.4 of the Welfare and Institutions Code is amended to read:

5328.4. The physician in charge of the patient, or the professional person in charge of the facility or his or her designee, when he or she has probable cause to believe that a patient while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, carjacking, robbery, assault with intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, unlawful possession of a weapon as provided in ~~Section 12020~~ any provision listed in Section 16590 of the Penal Code, or escape from a hospital by a mentally disordered sex offender as provided in Section 6330 of the Welfare and Institutions Code, shall release information about the patient to governmental law enforcement agencies.

The physician in charge of the patient, or the professional person in charge of the facility or his or her designee, when he or she has probable cause to believe that a patient, while hospitalized has committed, or has been the victim of assault or battery may release information about the patient to governmental law enforcement agencies.

This section shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This section shall not be construed as an exception to or in any other way affecting the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

**Comment.** Section 5328.4 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 6500 (amended). Commitment of persons dangerous to self or others**

SEC. \_\_\_\_\_. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless

he or she is a danger to himself or herself, or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section ~~12303.1, 12303.3, 12308, 12309, or 12310~~ 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

If the mentally retarded person is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article, the alleged mentally retarded person shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or herself or to others shall be

presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

**Comment.** Section 6500 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 8100 (amended). Weapons restrictions on patients and other persons**

SEC. \_\_\_\_ . Section 8100 of the Welfare and Institutions Code is amended to read:

8100. (a) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon, if on or after January 1, 1992, he or she has been admitted to a facility and is receiving inpatient treatment and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment of a mental disorder, is a danger to self or others, as specified by Section 5150, 5250, or 5300, even though the patient has consented to that treatment. A person is not subject to this subdivision once he or she is discharged from the facility.

(b)(1) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon for a period of six months whenever, on or after January 1, 1992, he or she communicates to a licensed psychotherapist, as defined in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence Code, a serious threat of physical violence against a reasonably identifiable victim or victims. The six-month period shall commence from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The prohibition provided for in this subdivision shall not apply unless the licensed psychotherapist notifies a local law enforcement agency of the threat by that person. The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court, pursuant to paragraph (3) and upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use firearms or other deadly weapons in a safe and lawful manner.

(2) Upon receipt of the report from the local law enforcement agency pursuant to subdivision (c) of Section 8105, the Department of Justice shall notify by certified mail, return receipt requested, a person subject to this subdivision of the following:

(A) That he or she is prohibited from possessing, having custody or control over, receiving, or purchasing any firearm or other deadly weapon for a period of six months commencing from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The notice shall state the date when the prohibition commences and ends.

(B) That he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(3) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, have custody or control over, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or upon its own motion, the superior court may transfer the petition to the county in which the person resided at the time of the statements, or the county in which the person made the statements. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8105 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney is notified of the hearing date by the clerk of the court. The court, upon motion of the petitioner establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this paragraph. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court shall order that the person may have custody or control over, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the department shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(c) "Discharge," for the purposes of this section, does not include a leave of absence from a facility.

(d) "Attending health care professional," as used in this section, means the licensed health care professional primarily responsible for the person's treatment who is qualified to make the decision that the person has a mental disorder and has probable cause to believe that the person is a danger to self or others.

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by ~~Section 12020~~ any provision listed in Section 16590 of the Penal Code.

(f) “Danger to self,” as used in subdivision (a), means a voluntary person who has made a serious threat of, or attempted, suicide with the use of a firearm or other deadly weapon.

(g) A violation of subdivision (a) of, or paragraph (1) of subdivision (b) of, this section shall be a public offense, punishable by imprisonment in the state prison, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(h) The prohibitions set forth in this section shall be in addition to those set forth in Section 8103.

(i) Any person admitted and receiving treatment prior to January 1, 1992, shall be governed by this section, as amended by Chapter 1090 of the Statutes of 1990, until discharged from the facility.

**Comment.** Subdivision (e) of Section 8100 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 8103 (amended). Weapons restrictions on specified persons**

SEC. \_\_\_\_\_. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a)(1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of

Section ~~12303.1, 12303.2, 12303.3, 12308, 12309, or 12310~~ 18715, 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d)(1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e)(1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person, the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f)(1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (5), found that the People of the State of California have not met their burden pursuant to paragraph (6).

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall

provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the superior court unless the person states that he or she will submit the form to the superior court.

(4) The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person shall not be subject to the five-year prohibition in this section on the ownership, control, receipt, possession or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) Where the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(9) Nothing in this subdivision shall prohibit the use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

(g)(1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) For each person certified for intensive treatment under paragraph (1), the facility shall immediately submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. Any report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney.

Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(h) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.

(j) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

**Comment.** Subdivision (b) of Section 8103 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

**Welf. & Inst. Code § 8104 (amended). Department of Mental Health records requested by Department of Justice**

SEC. \_\_\_\_\_. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The State Department of Mental Health shall maintain in a convenient central location and shall make available to the Department of Justice those records that the State Department of Mental Health has in its possession that are necessary to identify persons who come within Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make these requests only with respect to its duties with regard to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section ~~12001~~ 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, machineguns as defined in Section ~~12200~~ 16880 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in ~~Section 12020~~ Sections 17170 and 17180 of the Penal Code, assault weapons as defined in Section ~~12276~~ 30510 of the Penal Code, and destructive devices as defined in Section ~~12301~~ 16460 of the Penal Code, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives, destructive devices, devices as defined in Section ~~12001~~ 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, short-barreled shotguns, short-barreled rifles, assault weapons, and machineguns, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person.

**Comment.** Section 8104 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Welf. & Inst. Code § 15657.03 (amended). Protective orders for elder or dependent adult and other specified persons**

SEC. \_\_\_\_ . Section 15657.03 of the Welfare and Institutions Code is amended to read:

15657.03. (a) An elder or dependent adult who has suffered abuse as defined in Section 15610.07 may seek protective orders as provided in this section.

(b) For the purposes of this section, “protective order” means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(1) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner.

(2) An order excluding a party from the petitioner’s residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(3) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in paragraph (1) or (2).

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d)(1) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner’s residence or dwelling only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(C) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(2) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted, unless the order is otherwise modified or terminated by the court.

(e) The court may issue, upon notice and a hearing, any of the orders set forth in subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(f) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for three years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(g) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any affidavits in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(h) The court may, upon the filing of an affidavit by the applicant that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall be made returnable on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of reissuance. The reissued order shall state on its face the date of expiration of the order.

(i)(1) If a person named in an order issued under this section, after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the person named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based thereon, but the person does not appear at the hearing, either personally or by counsel, and the terms and conditions of the restraining

order or protective order are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order may be served on the person by first-class mail sent to that person at the most current address for the person available to the court.

(3) The judicial form for orders issued pursuant to this subdivision shall contain a statement in substantially the following form: “NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES WERE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER WAS ISSUED. IF YOU HAVE BEEN PERSONALLY SERVED WITH A TEMPORARY RESTRAINING ORDER OR EMERGENCY PROTECTIVE ORDER AND NOTICE OF HEARING, BUT YOU DO NOT APPEAR AT THE HEARING EITHER IN PERSON OR BY COUNSEL, AND A RESTRAINING ORDER OR PROTECTIVE ORDER IS ISSUED AT THE HEARING THAT DOES NOT DIFFER FROM THE PRIOR TEMPORARY RESTRAINING ORDER OR EMERGENCY PROTECTIVE ORDER, A COPY OF THE ORDER WILL BE SERVED UPON YOU BY MAIL AT THE FOLLOWING ADDRESS \_\_\_\_\_. IF THAT ADDRESS IS NOT CORRECT OR YOU WISH TO VERIFY THAT THE TEMPORARY OR EMERGENCY ORDER WAS MADE PERMANENT WITHOUT SUBSTANTIVE CHANGE, CALL THE CLERK OF THE COURT AT \_\_\_\_\_.”

(j)(1) The court shall order the petitioner or the attorney for the petitioner to deliver, or the clerk of the court to mail, a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each local law enforcement agency designated by the petitioner or the attorney for the petitioner having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court’s discretion as are requested by the petitioner. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(2) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(3) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(4) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(k) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(l) There is no filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(m) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this chapter.

(n) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(o)(1) An order issued pursuant to this section shall prohibit the person subject to it from owning, possessing, purchasing, receiving, or attempting to purchase or receive, a firearm.

(2) Paragraph (1) shall not apply to a case consisting solely of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(3) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(4) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(p) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(q) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.

(r) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

(s) This section shall become operative on January 1, 2010.

**Comment.** Subdivision (o) of Section 15657.03 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Note.** The text of Section 15657.03 reflects the enactment of AB 225 (Beall), 2008 Cal. Stat. ch. 480, § 2, which will be operative on January 1, 2010.

Amendments to Section 15657.03 by the enactment of the same bill, which are to be repealed on January 1, 2010, are not shown. See AB 225 (Beall), 2008 Cal. Stat. ch. 480, § 1.

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