

Memorandum 2008-38

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Fifth Revised Tentative Outline**

The Commission is conducting a nonsubstantive study of the statutes relating to deadly weapons. The goal of the study is to reorganize those statutes in a user-friendly manner, without changing their substantive effect.

To that end, the Commission prepared a tentative outline for reorganization of the material currently in Title 2 of Part 4 of the Penal Code, which relates to control of deadly weapons. The outline calls for creation of a new Part 6 of the Penal Code. The Commission has already revised the outline a few times, to reflect new legislation and make other adjustments.

A new version of the outline is attached. In this version, the staff has made revisions conforming to the Commission's decisions at the June meeting.

In addition, we have moved the following material, as recommended in Memorandum 2008-42:

- The provisions defining "assault weapon."
- The definition of "drop safety requirement for handguns."
- The material on BB devices and imitation firearms.

We have relabeled Title 4 of new Part 6 to reflect the relocation of the material on BB devices and imitation firearms. It is now "Title 4. Firearms," instead of "Title 4. Firearms and Similar Weapons."

We have also made the following changes:

- "Division 4. Storage of Firearms" of "Title 4. Firearms" has been divided into chapters.
- "Chapter 2. Carrying a Concealed Firearm" of "Division 5. Carrying Firearms" of "Title 4. Firearms" has been divided into articles.
- "Chapter 3. Carrying a Loaded Firearm" of "Division 5. Carrying Firearms" of "Title 4. Firearms" has been divided into articles.

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

- Penal Code § 12023 (relating to armed criminal action) was previously located in “Division 8. Miscellaneous Rules Relating to Firearms Generally” of “Title 4. Firearms and Similar Weapons.” It has been moved to “Article 1. Armed Criminal Action” of “Chapter 3. Carrying a Loaded Firearm” of “Division 5. Carrying Firearms” of “Title 4. Firearms.”
- Penal Code Section 12027.1 (relating to retired peace officers carrying concealed and loaded firearms) was previously located in “Chapter 2. Carrying Concealed Firearm” of “Division 5. Carrying Firearms” of “Title 4. Firearms and Similar Weapons.” It has been moved to a new chapter: “Chapter 5. Retired Peace Officer Carrying Concealed and Loaded Firearm” of “Division 5. Carrying Firearms” of “Title 4. Firearms.”

If anyone has a concern relating to the attached outline, please plan to raise it orally at the Commission’s upcoming meeting, express it in writing before the meeting, or both. Unless the Commission otherwise directs, the staff will proceed to implement the attached outline as drafted.

Respectfully submitted,

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Chief Deputy Counsel

NONSUBSTANTIVE REORGANIZATION OF THE DEADLY WEAPONS STATUTES:
TENTATIVE OUTLINE FOR A NEW PART 6 OF THE PENAL CODE (8/13/08)

The following is a tentative outline for a new Part 6 of the Penal Code, which would contain most of the material now in Title 2 of Part 4 of the Penal Code (Control of Deadly Weapons).

The outline does not include Penal Code Sections 12021.5-12022.95, which are sentencing enhancement provisions. Those provisions would be left where they are in Title 2, and Title 2 would be relabeled "Sentence Enhancements."

The outline also omits Penal Code Section 12078, a lengthy provision consisting of numerous exceptions to other provisions. The Commission plans to divide up the material in that statute such that each exception is stated close to each general rule it modifies. Minutes (April 2007), p. 9. It would be overly complicated to try to reflect that decision in the outline.

Under some of the proposed new headings in the outline, there is a list of "Material to be included." Except as otherwise indicated, the statutes in each list of "Material to be included" appear in numerical order, not necessarily the order in which the material would be placed under the new heading. Additional subheadings might be added as work on this study progresses.

Many of the existing statutes are long and may be divided into a number of different sections. In this tentative outline, especially long sections (ones that are more than two pages long in the attachment to Memorandum 2007-17) are indicated by the symbol "Ⓜ".

Penal Code Section 12001 consists of numerous definitions; most of its substance would be placed in "Division 2. Definitions" of "Title 1. Preliminary Provisions." Many other provisions in Title 2 of Part 4 of the Penal Code contain or constitute definitions. Most of these definitions will also be placed in "Division 2. Definitions" of "Title 1. Preliminary Provisions."

Within "Division 2. Definitions" of "Title 1. Preliminary Provisions," the definitions will be listed in alphabetical order. Whenever a defined term is used in a substantive provision to which the definition applies, the definition will be referenced in the Law Revision Commission's Comment to that provision.

Part 6. Control of Deadly Weapons

Title 1. Preliminary Provisions

Division 1. General Provisions

[Reserved for future use — no material to be included at present]

Division 2. Definitions

Material to be included (defined terms in alphabetical order):

Penal Code § 12278(b). “.50 BMG cartridge”

Penal Code § 12278(a) & (c). “.50 BMG rifle”

Penal Code § 12028.5(a)(1). “Abuse”

Penal Code § 12071(b)(20)(G)(i). “Agent”

Penal Code § 12020(c)(18). “Air gauge knife”

**Penal Code § 12316(a)(1)(b), 2d sent. & (b)(2).
“Ammunition”**

Penal Code § 12301(a)(3), 2d sent. “Antique cannon”

**Penal Code §§ 12001(e), 12020(b)(5), 2d sent., 12078(p)(6)(B),
12085(d)(3), 12088.8(a), 12276.1(d)(3), 12278(d), 12801(b).
“Antique firearm”**

Penal Code § 12301(a)(3), 3d sent. “Antique rifle”

Penal Code § 12001(i). “Application to purchase”

“Assault weapon” guidepost provision

Penal Code § 12020(c)(8). “Ballistic knife”

Penal Code § 12072.5(a). “Ballistics identification system”

Penal Code § 12001(p). “Basic firearms safety certificate”

Penal Code §§ 12001(g), 12550(a). “BB device”

Penal Code § 12020(c)(13). “Belt buckle knife”

Penal Code § 12580. “Blowgun”

Penal Code § 12581. “Blowgun ammunition”

Penal Code § 12323(c). “Body vest or shield”

**Penal Code § 12316(a)(2), 2d sent. “Bona fide evidence of
majority and identity”**

Penal Code § 12355(c). “Boobytrap”

**Penal Code § 12020(c)(9). “Camouflaging firearm
container”**

Penal Code § 12020(c)(5). “Cane gun”

Penal Code § 12020(c)(15). “Cane sword”

Penal Code § 12276.1(d)(2). "Capacity to accept more than 10 rounds"

Penal Code § 12027(a)(1)(E). "CCW"

Penal Code § 12801(a)(2). "Certified instructor" or "DOJ Certified Instructor"

Penal Code § 12126(c). "Chamber load indicator"

Penal Code § 12071(c)(1). "Clear evidence of his or her identity and age"

Penal Code § 12001(s). "Consultant-evaluator"

Penal Code § 12020(c)(24). "Dagger"

Penal Code § 12028.5(a)(3). "Deadly weapon"

Penal Code § 12071(a)(1). "Dealer," "licensee," or "person licensed pursuant to Section 12071"

Penal Code §§ 12086(a)(2), 12801(a)(1). "Department"

Penal Code §§ 12020(a), last ¶, 2d sent., 12301(a). "Destructive device"

Penal Code § 12020(c)(24). "Dirk" or "dagger"

Penal Code § 12801(a)(2). "DOJ Certified Instructor"

Penal Code § 12028.5(a)(2). "Domestic violence"

"Drop safety requirement for handguns" guidepost provision

Penal Code § 12301(b). "Explosive"

Penal Code §§ 12001(b)-(e), 12020(c)(22)(C), 1st ¶, 12030(d), 4th sent. "Firearm"

Penal Code § 12001(a)(1), (f). "Firearm capable of being concealed upon the person," "pistol," and "revolver"

Penal Code § 12087.6(a). "Firearms safety device"

Penal Code § 12071(c)(4)(A). "Firearms transaction record"

"Firing requirement for handguns" guidepost provision

Penal Code § 12020(c)(6). "Flechette dart"

Definition of "generally prohibited weapon" to mean any weapon now listed in Penal Code § 12020(a)

Penal Code § 12035(a)(4). "Great bodily injury"

Penal Code § 12087.6(b). "Gun safe"

Penal Code § 12070(b)(5), 2d ¶. "Gun Show Trader"

Penal Code § 12001(r). "Gunsmith"

Penal Code § 12001(a)(2), (f). "Handgun"

Penal Code § 12323(a). "Handgun ammunition"

Penal Code § 12323(b). "Handgun ammunition designed primarily to penetrate metal or armor"

Penal Code § 12001(q). "Handgun safety certificate"
Penal Code § 12020.1, 2d & 3d sent. "Hard plastic
knuckles"
Penal Code § 12027(a)(1)(A), 4th & 5th sent. "Honorably
retired"
Penal Code §§ 12550(c), 12555(c). "Imitation firearm"
Penal Code § 12078(c)(3). "Immediate family member"
Penal Code §§ 12020(c)(25), 12079(b). "Large-capacity
magazine"
Penal Code § 12025(g), 12031(a)(3). "Lawful possession of
the firearm"
Penal Code § 12020(c)(17). "Leaded cane"
Penal Code § 12601(c). "Less lethal ammunition"
Penal Code § 12601(a) & (b). "Less lethal weapon"
Penal Code § 12290(c). "Licensed gun dealer"
Penal Code § 12071.1(c). "Licensed gun show producer"
Penal Code § 12071(c)(3). "Licensed premises," "licensed
place of business," "licensee's place of business," and
"licensee's business premises"
Penal Code § 12086(a)(1). "Licensee" (for manufacturing)
Penal Code § 12071(a)(1). "Licensee" (synonymous with
"dealer" and "person licensed pursuant to Section
12071")
Penal Code § 12020(c)(14). "Lipstick case knife"
Penal Code §§ 12001(j), 12031(g), 12035(a)(2). "Loaded" and
"loaded firearm"
Penal Code §§ 12026.1(c) & last cl. of (a)(1), 12026.2(d),
12035(a)(5), 12036(a)(4). "Locked container"
Penal Code § 12035(a)(1), 12036(a)(1). "Locking device" for
firearm
Penal Code § 12087.6(c). "Long-gun safe"
Penal Code § 12200. "Machinegun"
Penal Code § 12276.1(d)(1). "Magazine"
Penal Code § 12126(d). "Magazine disconnect mechanism"
Penal Code § 12020(c)(7). "Metal knuckles"
Penal Code § 12020(c)(23). "Multiburst trigger activator"
Penal Code § 12020(c)(3). "Nunchaku"
Penal Code § 12070(c)(2). "Operation of law"
Penal Code § 653k, 3d ¶. "Passenger's or driver's area"
Penal Code § 12277. "Person"

Penal Code § 12071(a)(1). "Person licensed pursuant to Section 12071"

Penal Code § 12078(u)(2). "Person taking title or possession of firearms by operation of law"

Penal Code § 12001(n) & (o). "Personal handgun importer"

Penal Code § 12001(a)(1). "Pistol"

Penal Code § 12050(a)(3). "Principal place of employment or business"

Penal Code § 12031(f). "Prohibited area"

Penal Code § 12101(e). "Responsible adult"

Penal Code § 12001(a)(1). "Revolver"

Penal Code §§ 12020(c)(20), 12323(d). "Rifle"

Penal Code §§ 12071(c)(2), 12086(d) & (e). "Secure facility"

Penal Code § 12020(c)(22)(C), 1st ¶. "Security Exemplar"

Penal Code § 12126(e). "Semiautomatic pistol"

Penal Code § 12020(c)(16). "Shobi-zue"

Penal Code § 12020(c)(2). "Short-barreled rifle"

Penal Code § 12020(c)(1). "Short-barreled shotgun"

Penal Code § 12020(c)(21). "Shotgun"

Penal Code § 12020(c)(11). "Shuriken"

Penal Code § 12500. "Silencer"

Penal Code § 12281(i). "SKS rifle"

Penal Code § 12650. "Stun gun"

Penal Code § 653k, 2d ¶. "Switchblade knife"

Penal Code § 12401. "Tear gas"

Penal Code § 12402. "Tear gas weapon"

Penal Code § 12020(c)(12). "Unconventional pistol"

Penal Code § 12020(c)(22)(A)-(B). "Undetectable firearm" (to include Penal Code § 12020(c)(22)(C), 1st ¶. "Major component")

Penal Code § 12001.1(a), 2d sent. "Undetectable knife"

"Unsafe handgun" guidepost provision

Penal Code § 12070(b)(5), last sent. "Used firearm"

Penal Code § 12370(e). "Violent felony"

Penal Code § 12020(c)(4). "Wallet gun"

Penal Code § 12001(h). "Wholesaler"

Penal Code § 12020(c)(19). "Writing pen knife"

Penal Code § 12020(c)(10). "Zip gun"

Title 2. Weapons Generally

Division 1. Miscellaneous Rules Relating to Weapons Generally

Material to be included:

Penal Code § 12002 (as it applies to “any equipment authorized for the enforcement of law or ordinance in any city or county”)

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

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

Penal Code § 12590. Picketing with deadly weapon or in uniform of peace officer

Division 2. Generally Prohibited Weapons

Chapter 1. Exemptions

Material to be included:

Penal Code § 12020(b)(5), 1st sent. Exemption for antique firearm

Penal Code § 12020(b)(7). Exemption for firearm or ammunition constituting curio or relic

Penal Code § 12020(b)(8). Exemption for “any other weapon” in possession of person permitted to possess it under federal Gun Control Act of 1968

Penal Code § 12020(b)(9). Exemption for historical society, museum, or institutional collection

Penal Code § 12020(b)(10). Exemption for motion picture, television, video production, or entertainment event

Penal Code § 12020(b)(11). Exemption for person who sells to historical society, museum, or institutional collection, or for purposes of entertainment event

Penal Code § 12020(b)(12). Exemption for law enforcement

Penal Code § 12020(b)(13). Exemption for person who sells to law enforcement

Penal Code § 12020(b)(16). Exemption for transportation of non-firearm to law enforcement for disposition according to law

Penal Code § 12020(b)(17). Exemption for transportation of firearm to law enforcement for disposition according to law

**Penal Code § 12020(b)(18). Exemption for possession
by forensic laboratory**

Chapter 2. Miscellaneous Provisions

Material to be included:

**Penal Code § 12001(l). Distinct and separate offense
as to each firearm, weapon, or device violating §
12020**

Division 3. Surrender, Disposal, and Enjoining of Weapons
Constituting a Nuisance

Material to be included:

**Penal Code § 12028(c)-(d), (f). Surrender of weapon
constituting nuisance**

**Penal Code § 12029 (to the extent it states procedures
applicable to specified weapons constituting a
nuisance)**

Division 4. Seizure of Firearm or Other Deadly Weapon at Scene of
Domestic Violence

Chapter 1. Seizure and Subsequent Procedures

Material to be included:

Penal Code § 12028.5(b)-(e)

Chapter 2. Procedure Where Agency Believes Return of
Weapon Would Create Danger

Material to be included:

Penal Code § 12028.5(f)-(j)

Chapter 3. Liability

Material to be included:

Penal Code § 12028.5(k)

Division 5. Destructive Devices, Explosives, and Similar Weapons

Chapter 1. Destructive Devices and Explosives Generally

Article 1. Prohibited Acts

Material to be included:

**Penal Code § 12303. Unlawful possession of
destructive device**

**Penal Code § 12303.1. Explosive or destructive
device on vessel, aircraft, car, or other
vehicle**

Penal Code § 12303.2. Reckless or malicious possession of explosive or destructive device in public place

Penal Code § 12303.3. Use or attempted use of destructive device with intent to cause fear or harm

Penal Code § 12303.6. Sale or transportation of destructive device other than fixed ammunition greater than .60 caliber

Penal Code § 12304. Sale, possession, or transport of fixed ammunition greater than .60 caliber

Penal Code § 12308. Use or attempted use of destructive device with intent to commit murder

Penal Code § 12309. Willful and malicious use of explosive or destructive device resulting in bodily injury

Penal Code § 12310. Willful and malicious use of explosive or destructive device resulting in death, mayhem, or great bodily injury

Penal Code § 12311. No probation or suspension of sentence

Penal Code § 12312. Possession of materials with intent to create destructive device or explosive

Article 2. Exemptions

Material to be included:

Penal Code § 12302. Use of destructive device or explosive by law enforcement, military, or firefighter

Article 3. Permit and Inspection

Material to be included:

Penal Code § 12305. Permit for destructive device

Article 4. Destructive Device Constituting Nuisance

Material to be included:

Penal Code § 12307. Destructive device constituting nuisance

Chapter 2. Explosive Substance Other Than Fixed Ammunition

Material to be included:

Penal Code § 12020(a)(3). Prohibition against concealed carrying of explosive substance other than fixed ammunition

Penal Code § 12028(a) (as it pertains to unlawful concealed carrying of an explosive substance other than fixed ammunition)

Chapter 3. Handgrenades

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a metal military practice handgrenade or metal replica handgrenade)

Penal Code § 12020(a), last ¶, 1st sent. Punishment for first offense involving handgrenade

Penal Code § 12020(b)(15). Toy or permanently inoperative handgrenade

Penal Code § 12029 (as its catchall provision pertains to a metal military practice handgrenade or metal replica handgrenade)

Division 6. Less Lethal Weapons

Material to be included:

Penal Code § 12600. Less lethal weapon or ammunition for use by peace officer or custodial officer

Title 3. Weapons Other Than Firearms

Division 1. BB Devices

Material to be included:

Penal Code § 12551. Prohibition against sale of BB device to minor

Penal Code § 12552. Prohibition against furnishing BB device to minor without parental permission

Penal Code § 12552(b). "Furnishes"

Division 2. Blowguns

Material to be included:

Penal Code § 12582. Unlawful acts relating to blowguns or blowgun ammunition

Penal Code § 12583. Use of blowgun or blowgun ammunition by veterinarian or animal control professional

Division 3. Boobytrap

Material to be included:

Penal Code § 12355. Boobytrap

Division 4. Imitation Firearms

Material to be included:

Penal Code § 12553. Failure to comply with law governing appearance of imitation firearm or specified devices

Penal Code § 12554. Advisory requirement for imitation firearm

Penal Code § 12555. Unlawful commercial activities relating to imitation firearms

Penal Code § 12556. Display of imitation firearm in public place

Penal Code § 12556(e). "Public place"

Division 5. Knives and Similar Weapons

Chapter 1. General Provisions

Penal Code § 12020(d). Circumstances in which knife is not deemed "concealed"

Chapter 2. Disguised or Misleading Appearance

Article 1. Air Gauge Knife

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to an air gauge knife)

Penal Code § 12029 (as its catchall provision pertains to an air gauge knife)

Article 2. Belt Buckle Knife

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a belt buckle knife)

Penal Code § 12029 (as its catchall provision pertains to a belt buckle knife)

Article 3. Cane Sword

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a cane sword)

Penal Code § 12029 (as its catchall provision pertains to a cane sword)

Article 4. Lipstick Case Knife

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a lipstick case knife)

Penal Code § 12029 (as its catchall provision pertains to a lipstick case knife)

Article 5. Shobi-zue

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a shobi-zue)

Penal Code § 12029 (as its catchall provision pertains to a shobi-zue)

Article 6. Undetectable Knife

Material to be included:

Penal Code § 12001.1. Undetectable knife

Article 7. Writing Pen Knife

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a writing pen knife)

Penal Code § 12029 (as its catchall provision pertains to a writing pen knife)

Chapter 3. Ballistic Knife

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a ballistic knife)

Penal Code § 12029 (as its catchall provision pertains to a ballistic knife)

Chapter 4. Dirk or Dagger

Material to be included:

Penal Code § 12020(a)(4). Prohibition against concealed carrying of dirk or dagger

Penal Code § 12028(a) (as it pertains to unlawful concealed carrying of dirk or dagger)

Chapter 5. Switchblade Knife

Material to be included:

Penal Code § 653k, 1st ¶. Switchblade knife

Penal Code § 12028(a) (as it pertains to unlawful possession or carrying of a switchblade knife)

Division 6. Knuckles

Chapter 1. Hard Plastic Knuckles

Material to be included:

Penal Code § 12020.1. Hard plastic knuckles

Chapter 2. Metal Knuckles

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to metal knuckles)

Penal Code § 12029 (as it pertains to metal knuckles)

Division 7. Nunchaku

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a nunchaku)

Penal Code § 12020(b)(3)-(4). Nunchaku for school teaching arts of self-defense

Penal Code § 12029 (as it pertains to a nunchaku)

Division 8. Saps and Similar Weapons

Material to be included:

Penal Code § 12002 (as it applies to a wooden club or baton)

Penal Code § 12020(a)(1) (as it pertains to a leaded cane)

Penal Code § 12020(a)(1) (as it pertains to a blackjack, slungshot, billy, sandclub, sap, or sandbag)

Penal Code § 12020(b)(14). Entity selling wooden clubs or batons to special police officers or uniformed security guards

Penal Code § 12029 (as it pertains to a blackjack, slungshot, billy, sandclub, or sandbag)

Penal Code § 12029 (as its catchall provision pertains to a leaded cane)

Penal Code § 12029 (as its catchall provision pertains to a sap)

Division 9. Shuriken

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a shuriken)

Penal Code § 12029 (as it pertains to a shuriken)

Division 10. Stun Gun

Material to be included:

Penal Code § 12651. Unlawful acts relating to stun guns

Penal Code § 12652. Serial number and name of manufacturer

Penal Code § 12653. Violation punishable as misdemeanor

Penal Code § 12654. Instruction booklet for stun gun

Division 11. Tear Gas and Tear Gas Weapons

Chapter 1. General Provisions

Material to be included:

Penal Code § 12403. Peace officer trained in use of tear gas

Penal Code § 12403.1. Member of military or federal law enforcement officer

Penal Code § 12403.5. Private investigator or private patrol operator or employee

Penal Code § 12403.7. Lawful and unlawful acts relating to tear gas and tear gas weapons

Penal Code § 12403.8. Minor 16-years-old or older

Penal Code § 12403.9. Custodial officers of any county

Penal Code § 12404. Tear gas or tear gas weapons in prison, jail, or similar institution

Chapter 2. Unlawful Possession, Sale, or Transportation

Material to be included:

Penal Code § 12420. Unlawful sale, possession, or transport of tear gas or tear gas weapon

Penal Code § 12421. Affixation of serial number and name of manufacturer

Penal Code § 12422. Obliteration of serial number, name of manufacturer, or other identification mark

Chapter 3. Permits

Material to be included:

Penal Code § 12423. Permit issued by Department of Justice

Penal Code § 12424. Permit application

Penal Code § 12424.5. Permit for bank or other financial institution

Penal Code § 12425. Storage of permit

Penal Code § 12426. Revocation or suspension of permit

Title 4. Firearms

Division 1. Preliminary Provisions

Material to be included:

Penal Code § 12000. Dangerous Weapons Control Law

Penal Code § 12001(k). Distinct and separate offense despite reference to "any firearm"

Penal Code § 12001.6. Violent use of firearm

Penal Code § 12003. Severability

Division 2. Firearm Safety Devices, Gun Safes, and Related Warnings

Material to be included:

Penal Code § 12087. Aroner-Scott-Hayden Firearms Safety Act of 1999

Penal Code § 12087.5. Legislative findings

Penal Code § 12088. Duties of the Department of Justice

Penal Code § 12088.1 Firearm safety device requirement

Penal Code § 12088.15. Prohibited acts

Penal Code § 12088.2. Minimum safety standard

Penal Code § 12088.3. Warning label

Penal Code § 12088.4. Nonconforming device

Penal Code § 12088.5. Report of incident in which child suffers unintentional or self-inflicted gunshot wound

Penal Code § 12088.6. Punishment

Penal Code § 12088.7. Effect of compliance

Penal Code § 12088.8 Limitations on application of Act

Penal Code § 12088.9. Fee

Division 3. Disguised or Misleading Appearance

Chapter 1. Miscellaneous Provisions

Material to be included:

Penal Code § 12020.3. Bright orange or bright green firearm

Chapter 2. Obliteration of Identification Marks

Material to be included:

Penal Code § 12090. Obliteration of firearm identification marks prohibited

Penal Code § 12091. Presumption

Penal Code § 12092. Assignment of number or mark when firearm lacks one

Penal Code 12093. Additional number or identifying indicium

Penal Code § 12094. Possession, sale, or purchase of firearm with knowledge of obliteration of identifying number or mark

Chapter 3. Camouflaging Firearm Container

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a camouflaging firearm container)

Penal Code § 12029 (as its catchall provision pertains to a camouflaging firearm container)

Chapter 4. Cane Gun

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a cane gun)

Penal Code § 12029 (as its catchall provision pertains to a cane gun)

Chapter 5. Firearm Not Immediately Recognizable as a Firearm

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a firearm not immediately recognizable as a firearm)

Penal Code § 12029 (as its catchall provision pertains to a firearm not immediately recognizable as a firearm)

Chapter 6. Undetectable Firearm and Firearm Detection Equipment

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to an undetectable firearm)

Penal Code § 12020(c)(22)(C), 2d ¶. Newly installed firearm detection equipment

Penal Code § 12029 (as its catchall provision pertains to an undetectable firearm)

Chapter 7. Wallet Gun

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a wallet gun)

Penal Code § 12029 (as its catchall provision pertains to a wallet gun)

Division 4. Storage of Firearms

Chapter 1. Preliminary Provisions

Material to be included:

Penal Code § 12035(a)(3), 12036(a)(2). "Child"

Chapter 2. Criminal Storage of Firearm

Material to be included:

☞ Penal Code § 12035. Criminal storage of firearm

Chapter 3. Storage of Firearm Where Child Obtains Access and Carries Firearm Off-Premises

Material to be included:

Penal Code § 12036(a)(3). "Off-premises"

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

Division 5. Carrying Firearms

Chapter 1. Miscellaneous Rules Relating to Carrying Firearms

Material to be included:

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

Chapter 2. Carrying a Concealed Firearm

Article 1. Crime of Carrying a Concealed Firearm

Material to be included:

☞ **Penal Code § 12025**

Article 2. Peace Officer Exemption

Material to be included:

Penal Code § 12027(a)

Article 3. Conditional Exemptions

Material to be included:

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

Article 4. Other Exemptions

Material to be included:

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

Penal Code § 12026. Carrying or possession of firearm at place of residence, place of business, or other private property of person

Penal Code § 12026.1. Carrying firearm in locked container

☞ **Penal Code § 12027(b)-(j). Additional exemptions from restriction on carrying concealed firearm**

Article 5. Concealed Carrying of Firearm as a Nuisance

Material to be included:

Penal Code § 12028(a) (as it pertains to unlawful concealed carrying of handgun)

Penal Code § 12028(e). Nuisance provision inapplicable to firearm possessed by Department of Fish & Game, used in violation of Fish & Game Code, or forfeited under Pub. Res. Code § 5008.6

Chapter 3. Carrying a Loaded Firearm

Article 1. Armed Criminal Action

Material to be included:

Penal Code § 12023. Armed criminal action

Article 2. Crime of Carrying a Loaded Firearm in Public

Material to be included:

Penal Code § 12031(a), (e)

Article 3. Peace Officer Exemption to the Crime of Carrying a Loaded Firearm in Public

Material to be included:

Penal Code § 12031(b)(1)-(3)

Article 4. Other Exemptions to the Crime of Carrying a Loaded Firearm in Public

Material to be included:

Penal Code § 12031(b)(4)-(7), (c), (d), (h)-(l)

Penal Code § 12031(j)(1), 2d sent.

“Immediate”

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

Penal Code § 12033. Certificate for carrying loaded firearm

Article 5. Loaded Firearm in Motor Vehicle

Material to be included:

Penal Code § 12034. Loaded firearm in motor vehicle

Chapter 4. License to Carry Pistol, Revolver, or Other Firearm Capable of Being Concealed Upon Person

Material to be included:

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

Penal Code § 12050.2. Written policy

Penal Code § 12051. License application

Penal Code § 12052. Fingerprint and Department of Justice report

Penal Code § 12052.5. Notification of applicant

Penal Code § 12053. Duties of licensing authority

Penal Code § 12054. Application fee

Chapter 5. Retired Peace Officer Carrying Concealed and Loaded Firearm

Material to be included:

Penal Code § 12027.1. Retired peace officer carrying concealed and loaded firearm

Division 6. Sale, Lease, or Transfer of Firearms

Material to be included:

- Penal Code §§ 12070(c)(1)(A), 1st sent, & (B), 12078(g)(1), 2d ¶ & (u)(1). "Infrequent"
- Penal Code § 12070(c)(1)(A), 2d sent. "Transaction"
- ☞ Penal Code § 12070. License requirement for sale, lease, or transfer of firearms
- Penal Code § 12071(b)(20)(G)(ii). "Secured"
- ☞ Penal Code § 12071. Issuance, forfeiture, and conditions of license to sell firearms at retail
- ☞ Penal Code § 12071.1. Gun show or event
- Penal Code § 12071.4. Gun Show Enforcement and Security Act of 2000
- ☞ Penal Code § 12072. Prohibited and required acts relating to firearm sales or other transfers
- Penal Code § 12073. Register or record of electronic or telephonic transfer
- Penal Code § 12074. Requirements for preparation of register or record
- Penal Code § 12075. Duties relating to register
- ☞ Penal Code § 12076. Submission of firearm purchaser information to Department of Justice
- Penal Code §§ 12076(l)(2), 12077(g)(2). "Purchase"
- Penal Code §§ 12076(l)(1), 12077(g)(1). "Purchaser"
- Penal Code §§ 12076(l)(3), 12077(g)(3). "Sale"
- Penal Code § 12076(l)(4). "Seller"
- Penal Code § 12076.5. Firearms Safety and Enforcement Special Fund
- ☞ Penal Code § 12077. Form of register and record of electronic transfer
- Penal Code § 12077(d)(4), 2d sent. "Transaction"
- Penal Code § 12082. Procedure for sale, loan, or transfer of firearm
- Penal Code § 12083. Centralized list of exempted federal firearms licensees

Division 7. Manufacture of Firearms

Material to be included:

Penal Code § 12085. Prohibition against unlicensed manufacture of firearm

☞ **Penal Code § 12086. Issuance, forfeiture, and conditions of license to manufacture firearms**

Division 8. Miscellaneous Rules Relating to Firearms Generally

Material to be included:

Penal Code § 12028(b). Firearm constituting nuisance

Penal Code § 12028(e). Nuisance provision inapplicable to firearm possessed by Department of Fish & Game, used in violation of Fish & Game Code, or forfeited under Pub. Res. Code § 5008.6

Penal Code § 12081. Entertainment Firearms Permit

Division 9. Special Firearm Rules Relating to Particular Persons

Chapter 1. Juvenile

Material to be included:

Penal Code § 12101. Juvenile in possession of live ammunition or firearm capable of being concealed on person

Chapter 2. Person Convicted of Violent Felony

Material to be included:

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

Chapter 3. Person Convicted of Specified Offense, Addicted to Narcotic, or Subject to Court Order

Material to be included:

☞ **Penal Code § 12021. Firearm acquisition, possession, or control by person convicted of specified offense, addicted to narcotic, or subject to court order**

Chapter 4. Prohibited Armed Persons File

Material to be included:

Penal Code § 12010. Prohibited Armed Persons File

Penal Code § 12011. Use of Prohibited Armed Persons File

Penal Code § 12012. Assistance by Attorney General

Chapter 5. Firearms Eligibility Check

Material to be included:

Penal Code § 12001(m). Fingerprint requirement

Penal Code § 12077.5. Firearms eligibility check

Division 10. Special Rules Relating to Particular Types of Firearms or Firearm Equipment

Chapter 1. Ammunition

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a bullet containing or carrying an explosive agent)

Penal Code § 12020(a)(1) (as it pertains to flechette dart ammunition)

Penal Code § 12020(b)(6). Tracer ammunition for use in shotgun

Penal Code § 12029 (as its catchall provision pertains to flechette dart ammunition)

Penal Code § 12029 (as its catchall provision pertains to a bullet containing or carrying an explosive agent)

Penal Code § 12316. Unlawful acts relating to ammunition

Penal Code § 12320. Knowing possession of handgun ammunition designed to penetrate metal or armor

Penal Code § 12321. Import, sale, or knowing transport of handgun ammunition designed to penetrate metal or armor

Penal Code § 12322. Limitations on application of ammunition restrictions

Penal Code § 12324. Permanently deactivated ammunition

Penal Code § 12325. Ammunition manufactured under contract approved by government agency

Chapter 2. Assault Weapons

Material to be included:

Penal Code § 12275. Title

Penal Code § 12275.5. Legislative findings

Penal Code § 12276 intro. ¶, (a)-(d) & (f). "Assault weapon"

(to include Penal Code § 12276(e). "Series")

☞ Penal Code § 12276.1(a)-(c). Further clarification of "assault weapon"

Penal Code § 12276.5. Duties of Attorney General

- ☞ **Penal Code § 12280. Unlawful acts relating to assault weapons and .50 BMG rifles**
- Penal Code § 12281. Immunity and relinquishment of SKS rifle**
- Penal Code § 12282. Assault weapon or .50 BMG rifle constituting nuisance**
- ☞ **Penal Code § 12285. Registration and permits**
- Penal Code § 12286. Permits under specified circumstances**
- Penal Code § 12287. Issuance of permits by Department of Justice**
- Penal Code § 12288. Relinquishment of assault weapon or .50 BMG rifle**
- Penal Code § 12288.5. Broadcasting over police radio**
- Penal Code § 12289. Public education and notification program**
- Penal Code § 12289.5. Inspection conducted by Department of Justice**
- Penal Code § 12290. Special rules for licensed gun dealers**

Chapter 3. Body Armor

Material to be included:

- Penal Code § 12360. Certification requirement for acquisition of body armor**
- Penal Code § 12361. Performance standards for body armor**
- Penal Code § 12362. Application for certification of body armor**
- Penal Code § 12363. Content of application**
- Penal Code § 12364. Schedule for ballistic testing**
- Penal Code § 12365. Refusal to certify body armor**
- Penal Code § 12366. Revocation of certification**
- Penal Code § 12367. Regulations**
- Penal Code § 12368. Purchase of body armor by Department of General Services**
- Penal Code § 12369. Process for defining “enforcement activities” and developing standards for replacement of body armor**
- Penal Code § 12370. Purchase, ownership, or possession of body armor by person convicted of violent felony**

Chapter 4. Handguns

Article 1. Unconventional Pistol

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to an unconventional pistol)

Penal Code § 12029 (as its catchall provision pertains to an unconventional pistol)

Article 2. Handgun Safety Certificate

Material to be included:

Penal Code §§ 12070(c)(1)(A), 1st sent, & (B), 12078(u)(1). "Infrequent"

Penal Code § 12070(c)(1)(A), 2d sent. "Transaction"

Penal Code § 12800. Intent of Legislature

Penal Code § 12801(b). Handgun safety certificate requirement

Penal Code § 12802. Collusion or alteration, counterfeiting, or falsification of handgun safety certificate

Penal Code § 12803. Restrictions on issuance of handgun safety certificate by certified instructor

Penal Code § 12804. Duties of Department of Justice relating to handgun safety certificate

Penal Code § 12805. Test procedure and fees

Penal Code § 12806. Content of handgun safety certificate

Penal Code § 12807. Exemptions from handgun safety certificate requirement

Penal Code § 12808. Duplicate certificate

Penal Code § 12809. Operative date

Article 3. Unsafe Handguns

Material to be included:

Penal Code § 12125. Manufacture, import, sale, gift, or loan of unsafe handgun

Penal Code § 12126 intro. ¶, (a), (b)(1)-(b)(6), & parts of (b)(7). "Unsafe handgun"

Penal Code § 12127(a)-(b). "Firing requirement for handguns"
(to include Penal Code § 12127(c). "Malfunction")

Penal Code § 12128. "Drop safety requirement for handguns"

Penal Code § 12129. Manufacturer's certification

Penal Code § 12130. Laboratory testing

Penal Code § 12131. Roster prepared by Department of Justice

Penal Code § 12131.5. Firearm differing in insignificant respects from listed firearm

☞ Penal Code § 12132. Limitations on application of laws governing unsafe handguns

Penal Code § 12133. Exemption for single-action revolver meeting certain specifications

Chapter 5. Large-Capacity Magazine

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a large-capacity magazine)

Penal Code § 12020(b)(19)-(32). Exemptions from restriction on manufacture, sale, gift, loan, or possession of large-capacity magazine

Penal Code § 12029 (as its catchall provision pertains to a large-capacity magazine)

Penal Code § 12079. Permit for possession, transportation, or sale of large-capacity magazines

Chapter 6. Machine Guns

Material to be included:

Penal Code § 12201. Acquisition and use of machineguns by law enforcement officers

Penal Code § 12220. Unlawful acts relating to machineguns

Penal Code § 12230. Permit for possession, manufacture, or transportation of machineguns

Penal Code § 12231. Application and renewal process

Penal Code § 12232. Storage of machinegun permit

Penal Code § 12233. Revocation of machinegun permit

Penal Code § 12234. Inspection conducted by Department of Justice

Penal Code § 12250. License to sell machineguns

Penal Code § 12251. Machinegun constituting public nuisance

Chapter 7. Multiburst Trigger Activator

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a multiburst trigger activator)

Penal Code § 12029 (as its catchall provision pertains to a multiburst trigger activator)

Chapter 8. Short-barreled Rifle or Short-barreled Shotgun

Material to be included:

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

Penal Code § 12020(a)(1) (as it pertains to a short-barreled rifle or short-barreled shotgun)

Penal Code § 12020(b)(1). Short-barreled rifle or short-barreled shotgun for use by law enforcement or military

Penal Code § 12020(b)(2). Manufacture, possession, transportation, or sale of short-barreled rifle or short-barreled shotgun when authorized by Department of Justice

Penal Code § 12029 (as it pertains to a short-barreled rifle or short-barreled shotgun)

Penal Code § 12095. Permit for short-barreled rifle or short-barreled shotgun

Penal Code § 12096. Permit application process

Penal Code § 12097. Storage of permit and affixation of identifying number

Penal Code § 12098. Revocation of permit

Penal Code § 12099. Inspection conducted by Department of Justice

Chapter 9. Silencers

Material to be included:

Penal Code § 12501. Limitations on application of silencer laws

Penal Code § 12520. Unlawful possession of silencer

Chapter 10. Zip Gun

Material to be included:

Penal Code § 12020(a)(1) (as it pertains to a zip gun)

Penal Code § 12029 (as its catchall provision pertains to a zip gun)

Division 11. Firearm in Custody of Court or Law Enforcement Agency or Similar Situation

Material to be included:

- ☞ **Penal Code § 12021.3. Return or transfer of firearm in custody of court or law enforcement agency**
- Penal Code § 12028.7. Receipt for firearm taken into custody by law enforcement officer**
- Penal Code § 12030. Permissible uses of firearm in custody of law enforcement officer**
- Penal Code § 12032. Unclaimed firearm or firearm no longer needed as exhibit in criminal case**

Division 12. Miscellaneous Duties of the Department of Justice

Material to be included:

- Parts of Penal Code § 12126(b)(7). Method of identifying serial number of firearm from spent cartridge casings**
- Penal Code § 12039. Annual report by Attorney General on firearm use in crimes**
- Penal Code § 12072.5. Ballistics identification system**
- Penal Code § 12080. Pamphlet summarizing California firearms laws**